

22 JANUARY 1948

I N D E X

of

EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
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4033-G (Item 15)		3821	Captured German docu- ment - Memorandum by Weizsacker to the Reich Foreign Minister dated Berlin, 21 April 1942	37958	
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1395A		3822-A	Excerpt therefrom	37960	
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4066A Item 14)		3823-A	Excerpt therefrom	37967	
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3354		3824	(cont'd)		
			the Hearings of the Pearl Harbor In- vestigation (Ex. 2850 for Identification only)		37971
			<u>MORNING RECESS</u>		37978
3355		3825	Interrogation of OSHIMA, Hiroshi		37980
3355A		3825-A	Excerpt therefrom (1 February 1946)		37981
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Doc. No.	Def. No.	Pros. No.	Description	For Ident.	In Evidence
4047F	3827		Telegram dated 4 September 1939 from Weizsacker in Berlin to the German Foreign Office re appointment of SHIRATORI with Reich Foreign Minister in Berlin		37986
4034F (Item 16)	3827-A		Telegram dated 9 September 1939 from Mackensen in Rome to the German Foreign Office		37986
4032B	3828		Telegram dated 27 January 1941 from Ambassador Ott to the German Foreign Office		37989
4062	3829		Telegram dated 3 July 1941 from Ribbentrop to Ambassador Ott		37992
905	3830		Report from the Secretary General of the Metropolitan Police Board re a meeting of the League for the Sacred War, dated 18 June 1940		37994
3333	3831		Interrogation of YONAI, Mitsumasa		37999
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<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
3008		3832	Excerpts from Record of Budgets Committee Meeting - No. 25 - dated 22 March 1940 (The 75th Imperial Diet Session - Lower House)		38015
3030B		3833	Record of the Proceed- ings of the Budget Committee of the 75th Diet		38025
3348		3834	Volumes I to V inclusive of the Record of the Trial of the United States of America vs. SAWADA, Shigeru et al		38030
3349A		3834-A	Excerpt therefrom		38030
			<u>AFTERNOON RECESS</u>		38047
3349B		3834-B	Volume III (pp.211-307) of the Record of the Trial of the United States of America vs. SAWADA, Shigeru et al		38058
3121(2)-A		3835	The Talk Between Foreign Minister TOGO and German Ambassador Ott on 27 October 1941		38065

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of

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(cont'd)

<u>Doc.</u>	<u>Def.</u>	<u>Pros.</u>	<u>Description</u>	<u>For</u>	<u>In</u>
<u>No.</u>	<u>No.</u>	<u>No.</u>		<u>Ident.</u>	<u>Evidence</u>
3116C		3836	Telegram from Foreign Minister TOGO to his Ambassadors in foreign countries re progress of Japanese-American Negotiations, dated 12 November 1941		38070
3116G		3837	Telegram from Foreign Minister TOGO to his Ambassadors in foreign countries re progress of Japanese-American Negotiations, dated 25 November 1941		38073

Thursday, 22 January 1948

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with the exception of: HONORABLE JUSTICE JU-AO MEI, Member from the Republic of China, HONORABLE JUSTICE E. STUART McDougall, Member from the Dominion of Canada and HONORABLE JUSTICE JARANILLA, Member from the Commonwealth of the Philippines, not sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese to English interpretation was made by the Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI, who is represented by counsel. The
5 Sugamo prison surgeon certifies that he is ill and
6 unable to attend the trial today. The certificate will
7 be recorded and filed.

8 Mr. Tavenner.

9 MR. TAVENNER: If the Tribunal please, I will
10 read exhibit 3819.

11 "Berlin, 26 March 1942.

12 "Confidential B.

13 "For Ambassador Personally.

14 "In conversation with Ambassador OSHIMA
15 on 23 March I gave him more detailed statements on
16 the present situation in which I started with the very
17 bad prospect facing Russia, the atmosphere of deep
18 depression existing in fact among the leading politi-
19 cians in England, and the gigantic confusion reigning
20 in reality in the United States with its blustering
21 armament propaganda. If now the opponents' propaganda
22 tried to keep us from profiting from our victory it
23 was all the more necessary that we counter it with full
24 utilization of the weakness of our opponents' position
25 and bring to fruition in this very year the boldest

1 conceivable strategic plans. Germany would this year
2 definitely maneuver Russia into a position which would
3 eliminate it as a decisive factor in the war. As a
4 follow-up we then proposed to push forward into the Near
5 East, in order to shake hands with Japan. Japan, too,
6 was confronted with a situation wherein the safeguard-
7 ing of its conquests to date could only be assured by
8 the final annihilation of our enemies; therefore, the
9 Tripartite Pact powers 'should' undertake this year
10 further bold military offensive operations and in view
11 of the current weakness of the opponents they 'could'
12 undertake them in order to end the war as soon as possible
13 with the smallest possible number of sacrifices. I
14 could imagine that Japan should obtain security for
15 herself, that Australia could no longer become a base
16 for attack against Japan, that the Japanese fleet should
17 advance into the Indian Ocean, occupy Ceylon and estab-
18 lish bases on Madagascar and that Burma would be com-
19 pletely occupied. Above all, however, I believed that
20 an advance of the Japanese armies against Vladivostok
21 and in the direction of Lake Baikal would be of especial
22 significance. Naturally we did not expect anything of
23 Japan which would overstep its power for Japan's strength
24 was also ours. However, if Japan should be strong
25 enough this year for an attack on Russia, this would

1 materially contribute to Russia's rapid and final
2 elimination as an opponent in the war in view of the
3 latter's steadily deteriorating position. Even now,
4 the nutritional and economic situation in Soviet
5 Russia was dreadful according to reports reaching us,
6 and the Russians were literally devouring each other
7 in many districts, as a captured Russian general stated
8 recently. Russia had already lost 10 million of its
9 best soldiers, while our total losses since the out-
10 break of war had only been about 237,000 dead and
11 750,000 wounded, and of the latter at least 500,000
12 to 600,000 could again be used in the war, at any rate,
13 the German Army was much stronger today than last year
14 and ready for the new offensive which would be directed
15 against the since frightfully decimated Russian Army.
16 There was therefore no doubt that we would attain our
17 goal in Russia. Together with the common push of the
18 Axis and Japan to the Indian Ocean, this blow would
19 decide the war. If things went this way, the British
20 Empire would collapse in the foreseeable future, and
21 the U. S. A. would then be unable to do anything
22 serious either to us or to Japan.

24 "Ambassador OSHIMA agreed fully and completely
25 with my views. To be sure, he had received no official
communications on the Japanese intentions, but would do

1 everything on his own initiative to decide his govern-
2 ment to undertake the advance against Vladivostok and
3 East Siberia this year, as he also was of the opinion
4 that such a good opportunity would never return. Follow-
5 ing this up I spoke further with the Ambassador on the
6 future economic cooperation between the Europe-Africa
7 sphere under the leadership of the Axis on the one hand
8 and the Greater East Asia under the leadership of Japan
9 on the other, in which connection I designated as the
10 goal a large-scale economic agreement with preference
11 for the partners provided for and third parties, America
12 in particular, excluded as far as possible. A firm
13 alliance, looking as far ahead as possible, between the
14 Tripartite Pact Powers must form the basis of it. The
15 main outlines for economic cooperation shall as soon as
16 possible be laid down in a skeleton agreement.

17 "OSHIMA emphasized the special significance
18 which such an agreement would have as a substitute for
19 and transfer of the heretofore existing economic ties
20 between Japan and the U. S. We have in view a new dis-
21 cussion of this question in the very near future.

22 "I impart the foregoing to you for your per-
23 sonal information and also for suitable use in your con-
24 versations there with influential Japanese individuals.

25 "Ribbentrop."

1 At page 34,227, line 13, to page 34,229,
2 questions were put to OSHIMA regarding economic
3 negotiations at a conference with Ribbentrop on
4 9 May 1942. At page 34,228, lines 13 to 20, he testi-
5 fied that there was no occasion for discussing such a
6 thing and according to his recollection there was no
7 such discussion. At page 34,230, line 15, OSHIMA
8 further testified that he did not handle economic
9 negotiations.

10 I offer in evidence for identification
11 only IPS document No. 1373, a captured German document,
12 consisting of a memorandum signed by Gottfriedsen
13 relating the conversation of the German Foreign
14 Minister with Ambassador OSHIMA on 9 May 1942, and I
15 offer in evidence IPS document No. 1373-A, an excerpt
16 therefrom, for the purpose of contradicting the fore-
17 going testimony of OSHIMA and establishing what
18 occurred at said conference. It is important as it
19 shows OSHIMA's participation in the far-reaching plans
20 under the Tripartite Pact.

21 MR. CUNNINGHAM: I object to this document
22 for the reason that the purpose which the prosecution
23 gives, as seen from the original negotiation, is for an
24 economic agreement between Japan and Germany. The
25 excerpt is a little misleading, but it is immaterial.

1 OSHIMA here states that Japan will not be successful
2 against America in the war. He discusses here economic
3 collaboration of the post-war period, matters clearly
4 within the competence of the Ambassador whether the
5 war is won or lost. Economic planning as between
6 nations is a necessary discussion. We realize this
7 more now than ever. We contend that it is the duty
8 of the Ambassador to negotiate treaties and conven-
9 tions and assist generally in maintaining friendly
10 relations between his country and the country to which
11 he is accredited.

12 THE PRESIDENT: There is no need to repeat
13 that contention.

14 MR. CUNNINGHAM: Well, your Honor, we can't
15 object too vigorously because, as you will note from
16 the experience yesterday, some of these documents do
17 more for us than they do for the prosecution, and we
18 are not asking them to prove our case, and certainly
19 these things are immaterial.

20 THE PRESIDENT: The objection is overruled and
21 the document admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution document
23 No. 1373 will receive exhibit No. 3820 for identifica-
24 tion only; and the excerpt therefrom, being prosecution
25 document No. 1373-A, will receive exhibit No. 3820-A.

(Whereupon, the document above
1 referred to was marked prosecution exhibit
2 No. 3820 for identification; and the excerpt
3 therefrom, bearing document No. 1373-A, was
4 marked prosecution exhibit No. 3820-A and
5 received in evidence.)

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1 MR. TAVENNER: I will read exhibit 3820-A.

2 "Excerpts from Memo Re Conversation of
3 Ribbentrop with OSHIMA on 9 May 1942.

4 "Memorandum on the Conversation of the
5 German Foreign Minister with Ambassador OSHIMA on
6 9 May 1942.

7 * * * * *

8 "2) Economic Part.

9 "Turning to the major subject of the conver-
10 sation -- economic problems -- the Reich Foreign
11 Minister emphasized that it was in his opinion abso-
12 lutely necessary while the war was still on to lay down
13 clearly a definite basis for economic relations between
14 Germany and Japan. A starting point for all political
15 and, in particular, also for all economic discussions
16 and plans was the Tri-Partite Pact, which would prove
17 effective for all international settlements even after
18 the war and for an enormous length of time to come.
19 The two political major areas /Grossraume/ created by
20 the above, the East Asiatic Area under the leadership
21 of Japan with China, Siam, Burma, the Netherlands
22 Indies, and the European Area under the leadership of
23 the Axis with the European countries, North and Central
24 Africa, the Near East, and so forth, whose exact
25 demarcation was naturally not yet possible in detail,

had in advance so to fix their economic relations
1 that these would in no way adversely affect the political
2 relations. /Government/ policy was primary and economy
3 did not have as it had had to under the old liberalistic
4 principle, to serve for the enrichment of a few, who
5 did not bother about political necessities, but existed
6 for the economic well-being of the whole people and had
7 through proper organization to raise their standard of
8 living.
9

10 "OSHIMA enthusiastically concurred in the idea
11 of a treaty arrangement for economic relations. The
12 conclusion of an economic treaty was particularly
13 important, all the more so, because it would be very
14 difficult to bring America to its knees in the present
15 war -- unless there was an outbreak of unrest inside
16 America. Therefore even after the end of the war
17 battle would have to be waged with the U.S.A. in the
18 field of economy through its being economically boy-
19 cotted by Japan and the Axis.
20

21 "The Reich Foreign Minister then proposed
22 for the sake of the practical carrying out of this
23 plan to draw up a basic accord, which would be for
24 publication, and to provide a secret protocol, not
25 intended for publicity, which would include all impor-
tant details. The Reich Foreign Minister on the basis

1 of the proposals made so far went over the points to
2 be settled by treaty, in which connection he emphasized
3 that at the moment they were only dealing with a
4 proposal which he himself had not yet examined in all
5 its details and which for the time being should only
6 be between him and the ambassador as an exchange of
7 ideas."

8 I shall omit reading the next two paragraphs.

9 "The Reich Foreign Minister then enlarged
10 on the various points of the proposals.

11 "The economic cooperation between the two
12 great economic areas would in his opinion be considerably
13 facilitated by a strict central control of economy
14 being carried out. To be sure there would remain in
15 addition to the guiding powers other independent states
16 in both economic areas. These, however, would be
17 forced completely of themselves to carry out a far-
18 reaching control of their economy, and the guiding powers
19 would immediately from their natural economic pre-
20 dominance be in a position to exert influence on the
21 regulating of economy in the other independent states.
22 In time, then, the two economic areas would of them-
23 selves more and more grow in the direction of one unit,
24 /a situation/ which would also have effects in the
25 field of customs and currency.

"Further the two economic areas would have to give mutual preference in all economic fields. So far as necessary preferential tariffs would have to be granted in the exchange of goods; in any event care should be taken that the products of one partner should not be forced from the market through an outsider, the U.S.A. for example, offering its goods more cheaply. The sale of important goods to third /powers/ should only occur after the partner had been supplied. They should really think over, the Reich Foreign Minister felt, whether they shouldn't even now make it binding that after the war the resumption and later continuation of economic relations with enemy countries should only take place after mutual agreement between the partners. This applied particularly to the U.S.A. and those Central and South American countries which had shown themselves as being particularly under the sway of the U.S.A., as, for example, Brazil.

"In cases where economically independent forces still remained within the two economic areas which were opposed to all this regulating and acted to oppose it (several giant concerns -- MITSUI among others), measures would have to be taken to eliminate them.

"OSHIMA fundamentally agreed with these

statements and emphasized again for his own part that
1 the two great areas must determine a uniform economic
2 policy to last a long time and /covering/ not only
3 what concerned their internal policy, and the economic
4 relations between each other, but also those with
5 outside economic areas. . .

6 "Signed, Gottfriedsen."

7 MR. CUNNINGHAM: If the Tribunal please, may
8 I point out that the prosecutor did not mention in
9 his introduction of the document that he was only
10 going to read part of it, and I had no opportunity
11 to know that he was going to take only the advantageous
12 parts and eliminate the parts which disprove another
13 theory of the case and only give the Court half-facts.
14 That is not quite fair tactics.

16 Now, the prosecution contends that there was
17 cooperation between Italy, Japan and Germany. These
18 two paragraphs indicate pretty clearly that Italy was
19 not a potent ally; Italy was an impotent ally. But
20 still they eliminate those two paragraphs because they
21 think that perhaps won't hurt them and puts us in a
22 position of coming back and opening our case later
23 on the things they could just as well read to give us
24 the entire picture.

25 THE PRESIDENT: We have read those two which

were omitted.

1 MR. TAVENNER: If the Tribunal please, I
2 think the criticism of unfairness is wholly unjustified.
3 My purpose in omitting the reading of those two
4 paragraphs was purely to save time on what I thought
5 was an immaterial point. But in view of the question
6 raised, I would like to read the two paragraphs in the
7 record.

8 "After giving the information on the proposal
9 the Reich Foreign Minister mentioned that Japan might
10 conclude a similar treaty with Italy. He considered
11 this necessary politically, because the fact of the
12 conclusion of an economic treaty between the Tri-
13 Partite powers would nip in the bud all the rumors and
14 purposeful lies which would immediately arise if an
15 economic treaty were concluded solely between Germany
16 and Japan.

17 "OSHIMA Recognized this idea as correct and
18 necessary. Nevertheless he pointed out in this con-
19 nection a difficulty which lay in the fact that Japan
20 so far had had as good as no economic relations with
21 Italy. In spite of this he too was of the opinion that
22 Japan, for the reasons adduced by the Reich Foreign
23 Minister, should conclude a treaty with Italy."

24 At page 34,272, line 11 to line 23, OSHIMA

1 denied that he was in favor of a Japanese attack on
2 Russia, and at page 34,277, line 6 to the end of the
3 page, OSHIMA denied statements attributed to him at a
4 conference with Weiszaecker on 21 April 1942 regarding
5 this same matter.

6 I offer in evidence IPS document No. 4033-G,
7 Item 15, a captured German document, it being a memo-
8 randum by Weiszaecker, bearing date of 21 April 1942
9 directed to the Reich Foreign Minister regarding a
10 conference with OSHIMA on that date for the purpose of
11 contradicting the foregoing testimony of OSHIMA.

12 It is important because it shows OSHIMA's
13 activity in inducing military action against Russia.

14 MR. CUNNINGHAM: Now, if the Tribunal please,
15 I object to this document. It is irrelevant to this
16 case because Japan never attacked Soviet Russia during
17 the war but was attacked by Soviet Russia without
18 notice, contrary to the Neutrality Pact, and certainly
19 pursuant to an agreement at Yalta for an aggressive
20 war against Japan, if we are to accept the prosecution's
21 theory of the case.

22 We have admitted that Germany tried every
23 way they could try through OSHIMA and every other way
24 to get Japan to attack Soviet Russia, and Japan refused
25 to do so. That is not contested here.

1 We suggest that it was the duty of the
2 ambassador to present the demands of the German Govern-
3 ment in their most favorable light to the Japanese
4 Government. That is the duty under international law
5 of the ambassador. We have no issue there.

6 THE PRESIDENT: There is no need to repeat
7 that.

8 MR. CUNNINGHAM: The document is unimportant
9 and immaterial, and certainly has no probative value.

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1 THE PRESIDENT: By a majority the objection is
2 overruled and the document admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution document No.
4 4033-G, item 15, will receive exhibit No. 3821.

5 (Whereupon, the document above
6 referred to was marked prosecution exhibit
7 No. 3821 and received in evidence.)

8 MR. TAVENNER: I will read exhibit 3821:

9 "Berlin, 21 April 1942

10 "STATE SECRETARY No. 273

11 "Without mentioning the source, I informed the
12 Japanese Ambassador today how great the Iranian Govern-
13 ment estimated Russian fear of Japan to be. (Instruc-
14 tion of the Reich Foreign Minister of the 19th inst.)

15 "OSHIMA received the information with thanks
16 and added of his own accord how matter-of-course it
17 seemed to him that Japan should attack the Russians in
18 East Asia. A certain dispersal of Japanese Naval forces
19 would of course be involved and for that reason his
20 government seemed still undecided when it should take up
21 the battle against Russia.

22 "I could prove to OSHIMA from my own knowledge
23 how little the Soviet Russian submarines at Vladivostok
24 were to be feared.

25 "OSHIMA assured /Weiszaecker/ that he was

1 working hard to put an end to the wholly unnatural situation
2 in which Japan was still living in peace and close
3 neighborliness today with Russian enemy so furiously engaged
4 by Germany.

5 "Herewith to the Reich Foreign Minister

6 "Signed: Weizsaecker"

7 At page 34,272, lines 11 to 23, OSHIMA denied
8 that he was in favor of a Japanese attack on Russia, and
9 at page 34,281, line 1, to page 34,283, line 6, OSHIMA
10 denied certain statements attributed to him in a conference
11 with Ribbentrop on 30 July 1942 regarding these
12 matters.

13 I offer in evidence for identification only IPS
14 document No. 1395, a captured German document, it being
15 a memorandum signed "R" relating to a conference between
16 Ribbentrop and OSHIMA on 30 July 1942, and I offer in
17 evidence IPS document No. 1395-A, an excerpt therefrom,
18 in contradiction of the foregoing testimony of OSHIMA.
19 It is important because it contains admissions by OSHIMA
20 as to the far-reaching extent to which he went in an
21 effort to guide the Japanese war policy.

22 THE PRESIDENT: Mr. Cunningham.

23 MR. CUNNINGHAM: We haven't a very serious objection
24 to this document. We object to the excerpt
25 without the original. The document is a fragmentary

1 report of a diplomatic matter in a conversation during
2 the war about something which never happened and wasn't
3 contemplated. It is mere diplomatic chatter. A careful
4 perusal of the document will show that it is nothing but
5 a smooth rejection of Germany's wish to have Japan
6 participate in the war with Russia; a very diplomatic
7 answer "no."

8 THE PRESIDENT: The objection is overruled and
9 the document admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution document No.
11 1395 will receive exhibit No. 3822 for identification
12 only, and the excerpt therefrom, being prosecution
13 document No. 1395-A, will receive exhibit No. 3822-A
14 (Whereupon, the document above
15 referred to was marked prosecution exhibit
16 No. 3822 for identification; the excerpt
17 therefrom being marked prosecution exhibit
18 No. 3822-A and received in evidence.)

19 MR. TAVENNER: (Reading)

20 "STATE SECRET"

21 "Note: Reference the conference between the
22 Reich Foreign Minister and the Japanese Ambassador General
23 OSHIMA in the Foreign Minister's Field Quarters on 30
24 July 1942.

1 report of a diplomatic matter in a conversation during
2 the war about something which never happened and wasn't
3 contemplated. It is mere diplomatic chatter. A careful
4 perusal of the document will show that it is nothing but
5 a smooth rejection of Germany's wish to have Japan
6 participate in the war with Russia; a very diplomatic
7 answer "no."

8 THE PRESIDENT: The objection is overruled and
9 the document admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution document No.
11 1395 will receive exhibit No. 3822 for identification
12 only, and the excerpt therefrom, being prosecution
13 document No. 1395-A, will receive exhibit No. 3822-A

14 (Whereupon, the document above
15 referred to was marked prosecution exhibit
16 No. 3822 for identification; the excerpt
17 therefrom being marked prosecution exhibit
18 No. 3822-A and received in evidence.)

19 MR. TAVENNER: (Reading)

20 "STATE SECRET"

21 "Note: Reference the conference between the
22 Reich Foreign Minister and the Japanese Ambassador General
23 OSHIMA in the Foreign Minister's Field Quarters on 30
24 July 1942.

1 "At the beginning of the conversation, Ambas-
2 sador OSHIMA explained that unfortunately his wish to
3 receive from the Japanese Government a positive reply
4 on the question of participating in the war against
5 Russia had not yet been fulfilled. He had cabled to
6 Tokyo details of his last talk with the Reich Foreign
7 Minister and had also added his own point of view that an
8 early intervention against Russia and intensive action
9 to paralyze English shipping in the Indian Ocean was
10 proper. He had now got a telegram on 27 July from
11 Tokyo in which approximately the following was imparted:

12 "Since the beginning of the war the Japanese
13 operations in the Pacific and in the Indian Ocean exer-
14 cised an ever increasing pressure on the USA and Britain
15 and thereby made a substantial contribution to the con-
16 duct of the joint war. At the same time, Japan would
17 have to occupy herself further vigorously with the
18 elimination of Chungking China. In spite of the success
19 up to now of the Japanese armed forces, the resistance
20 on the part of the USA still remained so obstinate that
21 Japan must more and more harness her strength for future
22 operations against this enemy. Japan's efforts to deny
23 the resources of the South Seas to the enemy /countries/
24 and to hold on to them for herself were only in the
25 beginning stage. In these circumstances, action by Japan

1 against the Soviet Union would bring about too great a
2 dispersion of Japan's strength. An increase in the war
3 strength of the USA and Britain in the European theater
4 might be brought about through any lessening of Japa-
5 nese pressure /in the Pacific/ and further the Americans
6 might be provided with a favorable base for an attack on
7 Japan. Japan cannot enter upon such a policy needlessly,
8 even though she should be ready for all eventualities.
9 For that reason Japan wants to keep quiet in the North,
10 but make the utmost efforts to intensify her operations
11 in the Pacific and the Indian Ocean.

12 "By way of illustration, Ambassador OSHIMA con-
13 tinued: The problem had without doubt been earnestly
14 studied anew in Tokyo. Personally he indeed shared the
15 understanding that today a uniquely favorable opportunity
16 presented itself to Japan to deal a blow to the Russians
17 and moreover, the Japanese Army had always advocated the
18 opinion that such action against Russia was necessary.
19 He could therefore only hazard a guess as regards the
20 reasons for his Government's communication. In the first
21 place, he assumed that in Japan the taking of Vladivostok
22 was considered a protracted undertaking and feared that
23 while it was going on, the Americans would get air bases
24 in Eastern Siberia from which they could bomb Tokyo. In
25 the second place, the Japanese Army certainly would have

1 various difficulties and above all in the sphere of the
2 air force. This could be seen from the requests for
3 supplies directed to Germany. The Japanese always
4 carried out their operations only after very thorough
5 preparation and the stage did not yet seem to be set for
6 an action against Russian. Undoubtedly there were various
7 opinions in Japan on this matter and he did not, in any
8 case, consider the answer which had just reached him as
9 the last. Perhaps an action against Russia might yet be
10 possible before October, or if not, probably not before
11 next Spring.

12 * * *

13 "Ambassador OSHIMA thereupon replied that he
14 himself had proposed again and again to utilize the
15 opportune moment and this would be also borne in mind
16 in Japan. He believed, however, that operations in the
17 Southern theater had already been initiated and that
18 these could not now be easily broken off in order to go
19 North instead, since great results had already been ob-
20 tained in this /Southern/ theater. In order to be
21 secure, Japan must beat the Americans and for this pur-
22 pose the operations towards the South, towards Australia
23 and towards Midway must be put through first /must have
24 first priority/. Only in that way could the establish-
25 ment of American bases in Australia be forestalled. In

1 spite of this, he himself certainly was for conducting a
2 thrust against Russia, too, but apparently the air force
3 was engaged in the South and it seemed also that it
4 lacked experienced officers. He deduced this from the
5 fact that about 20 Japanese officers were recently re-
6 called to Japan from Germany, a measure which could not
7 properly be understood if operations in the South only
8 were considered. Ambassador OSHIMA then summed up his
9 complete opinion /by saying/ that Japan first of all must
10 build up her position in the South and also occupy Midway
11 and other islands. He did not know what further action
12 against India was in view, but at all events the
13 essential thing was the weakening of England and the USA,
14 which called for the whole of Japan's strength. Japan
15 could only move towards the North, i.e., against Russia,
16 when it became practicable."

17
18 THE PRESIDENT: Is OSHIMA's cable to Tokyo,
19 referring to the first paragraph, in evidence?

20 MR. TAVENNER: The cable itself is not in
21 evidence, according to my recollection, but OSHIMA was
22 cross-examined regarding that cable, and the conversation
23 that took place between OSHIMA and Ribbentrop, which
24 resulted in that cable, is in evidence. It is not in
25 evidence because we have never found it.

Continuing to read the exhibit:

1 "Ambassador OSHIMA closed with the assurance
2 that in his opinion the advance to the North was the
3 question Japan's fate hung on and which he was always
4 reiterating to his Government.

5 "The Reich Foreign Minister ended the conver-
6 sation with the remark that he shared this view of the
7 Ambassador's completely and hoped that Japan might soon
8 feel strong enough to risk the advance into the North.
9 The final result of such action must, however, not be in
10 doubt from the outset."

11 I will omit item 14 on the order list, and I
12 will also omit item 15.

13 At page 34,311, line 1, to page 34,312, line
14 13, OSHIMA denied that he had been of the opinion that
15 the Japanese Government in establishing the so-called
16 New Order in East Asia under the Tripartite Pact planned
17 to use armed force for its accomplishment.

18 I offer in evidence for identification only
19 IPS document No. 4066, item 14, a captured German docu-
20 ment, it being a telegram from Erdmannsdorff to
21 Rintelen, bearing date 18 October 1941, regarding a
22 conference between Erdmannsdorff and OSHIMA, and I
23 offer in evidence IPS document No. 4066-A, item 14, an
24 excerpt therefrom, in contradiction of the foregoing
25 testimony of OSHIMA and to establish what occurred at
this meeting.

THE PRESIDENT: Mr. Cunningham.

1 MR. CUNNINGHAM: I merely want to say that in
2 OSHIMA's explanation of this, he said this Erdmannsdorff
3 probably picked up scattered segments of conversations
4 and pieced them together according to his own ideas.
5 That is the reason we object to it primarily.

6 Now, the author of this document had no
7 substantial importance. His position was minor and
8 certainly anything he said would have no binding effect
9 on either government and certainly has no probative
10 value here.

11 You will note that this is just a couple of
12 excerpts from scattered notes taken and certainly
13 should not be considered as evidence at all. It is
14 so fragmentary that you cannot get a complete thought
15 and you cannot get even the subject of conversation.
16 This is only an interdepartmental communication between
17 a couple of Germans about something that was said at
18 a luncheon table.

19 THE PRESIDENT: By a majority the objection
20 is overruled and the document admitted on the usual
21 terms.

22 CLERK OF THE COURT: Prosecution document
23 No. 4066A (Item 14) will receive exhibit No. 3823
24 for identification only, and the excerpt therefrom,

1 bearing the same prosecution document number, will
2 receive exhibit No. 3823-A.

3 (Whereupon, the document above re-
4 ferred to was marked prosecution exhibit No.
5 3823 for identification; the excerpt there-
6 from being marked prosecution exhibit No.
7 3823-A and received in evidence.)

8 MR. TAVENNER: I will read exhibit No. 3823-A.

9 "Berlin, 18 October 1941

10 "Teletype! Secret-writing
11 "FOR ENVOY VON RINTELEN (in transit) via
12 Reich Foreign Minister Bureau

13 "By direction of the Reich Foreign Minister
14 I sought out Ambassador OSHIMA this afternoon and
15 questioned him in greater detail on his judgment on
16 the Japanese Cabinet change.

17 "In the view of the Ambassador, the Japanese
18 government must have been certain in its mind at the
19 time the Tripartite Pact was concluded that the Greater
20 East Asia Sphere could only be achieved through a
21 push to the south, and with the sword at that. And
22 this action had been prepared, the only question was
23 when 'things should start,' perhaps in conjunction
24 with possible German operations against Great Britain.

25 "The Ambassador, to whom I mentioned in the

1 course of the conversation the appearance of new
2 Russian divisions from Siberia on our front, averred
3 again that it would be good if the Japanese Army,
4 by means of a push into East Siberia, contributed to
5 the restoration of a land connection between Germany
6 and Japan. He had often submitted proposals to this
7 effect to his government. It was to be hoped that
8 in accordance therewith would soon be taken" -- I
9 suppose it means undertaken.

10 "Erdsmannsdorff."

11 At page 34,284, line 11 to line 22, OSHIMA
12 in effect denied that he approved of and favored
13 Japanese exploitation of French Indo-China in September
14 1941, and at page 34,312, line 13, to page 34,314,
15 line 11, OSHIMA denied certain statements attributed
16 to him in a conference with Erdsmannsdorff on 17
17 November 1941 regarding an advance to the South
18 because of the pressing need of petroleum, the necessity
19 of the seizure of the Island of Borneo, the determination
20 of the distance between Borneo and the nearest
21 Japanese troops in South French Indo-China, the
22 effectiveness of an attack upon Singapore, and the
23 training of Japanese infantry divisions on the Island
24 of Hainan for landing operations and combat in
25 tropical regions.

1 A telegram from Erdmannsdorff to Ribbentrop
2 bearing date of 17 November 1941 regarding a conference
3 between Erdmannsdorff and Ambassador OSHIMA was
4 admitted in evidence as exhibit 655, page 7,117 of the
5 transcript, but only a part thereof was read in evidence.
6 I will now read in evidence that part of said exhibit
7 which relates to the foregoing answers of OSHIMA.

8 THE PRESIDENT: Mr. Cunningham.

9 MR. CUNNINGHAM: Your Honor, I object to the
10 prosecution waiving at one time the reading of certain
11 parts of a document to prove their case and then
12 coming now at a late stage in the game and reading
13 unread portions. That seems so ridiculously unfair.

14 THE PRESIDENT: You are not now giving
15 evidence, Mr. Tavenner, but you are going to read
16 evidence already given. This is really summation in
17 the purest sense.

18 MR. CUNNINGHAM: And then, your Honor, I wish
19 you would take note of the introductory speech and
20 summation on that document. It certainly ~~violates~~
21 every admonition you gave to me and other defense
22 counsel in that respect.

23 THE PRESIDENT: Leave it as it is, I suggest,
24 Mr. Tavenner. You will only trouble the Tribunal and
25 everybody else.

1 MR. TAVENNER: At page 34,232, line 1 to
2 line 4, OSHIMA testified that he did not oppose the
3 diplomatic policy of MATSUOKA with regard to the
4 United States and at page 34,235, line 18 to line
5 22, he testified that he did not undertake to control
6 the diplomacy of the Japanese Government by his
7 communications to MATSUOKA.

8 I offer in evidence IFS document No. 3354
9 which is an excerpt from the Memoirs of Prince KONOYE
10 heretofore admitted in evidence for identification
11 only as exhibit 2850 in order to contradict the fore-
12 going testimony of OSHIMA. This is a very important
13 document because it shows the influence that OSHIMA
14 had successfully exerted on MATSUOKA in connection
15 with the Japanese-American negotiations in May 1941.

16 THE PRESIDENT: Mr. SHIMANOUCHI.

17 MR. SHIMANOUCHI: I object on behalf of the
18 defendant OSHIMA. This document contains the contents
19 of a telegram by OSHIMA, but in view of the former
20 rulings of this Court as long as this said cable is
21 not tendered in evidence or that its existence is not
22 verified, we object to the offering of this in evidence.

23 THE PRESIDENT: Mr. Tavenner.

24 MR. TAVENNER: If your Honor please, this is
25 a statement by KONOYE in his memoirs as to the

1 influence that was exerted upon MATSUOKA by
2 representations made from German officials and
3 personal opinions from Ambassador OSHIMA.

4 THE PRESIDENT: By a majority the objection
5 is overruled and the document admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution document
8 No. 3354 will receive exhibit No. 3824.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution exhibit No.
11 3824 and received in evidence.)

12 MR. TAVENNER: I will read exhibit 3824.

13 "Excerpt from Memoirs of Prince KONOYE
14 (Page 3991 of Part 20 of the Joint Committee Exhibits
15 of the Hearings of the Pearl Harbor Investigation,
16 Exhibit 2850 for Identification Only.)

17 * * *

18 "Lastly, the representations stated that
19 'The German Government was obliged to express its
20 desire for total participation by Germany in the
21 Japanese-American negotiations and for an immediate
22 report regarding the American reply. It constituted
23 an infringement upon the articles of the Tripartite
24 Pact for Japan to listen to American representations
25 and to determine Japan's future policy without entering

1 into a previous understanding with the German Govern-
2 ment regarding all the important problems included
3 in the proposal.' Such were the high-handed
4 representations of the Germans. At the same time
5 Ambassador OSHIMA repeatedly sent cables, reporting
6 that German national leaders were harboring extreme
7 antipathy toward the Japanese-American proposal. He
8 also declared his own opposition in strong language.

9 "(13). VIII

10 "In Tokyo, joint conferences were held on
11 May 15th and May 22nd, but they did not go beyond an
12 exchange of information and opinions. It was evident
13 that through the influence of the German representations
14 and the repeated objections of Ambassador OSHIMA, the
15 originally vague attitude of the Foreign Minister had
16 become more and more vague; and it was more and more
17 obvious that, in contrast with the other Cabinet
18 members who were full of hopes, he was standing alone
19 in his opposition."

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K 1 At page 34,317 of the transcript, line 3, the
a 2 Tribunal sustained an objection to the introduction of
p 3 excerpts from the interrogation of OSHIMA, and stated
e 4 the prosecution may tender these documents at the time
a 5 of their rebuttal, and the Tribunal will consider their
& 6 admissibility. Accordingly, I now offer in evidence
K 7 for identification only IPS document No. 3355, consist-
n 8 ing of the interrogations of OSHIMA, bearing dates of
a 9 1, 6 and 15 of February and the 7th of March, 1946, and
p 10 I offer in evidence IPS documents 3355-A, 3355-B, 3355-C
p 11 and 3355-D, consisting of excerpts from IPS document
12 3355. I do not propose to read this document. These
13 excerpts were put to the witness during the course of
14 his examination at pages 34,073, 34,079, 34,094, 34,097,
15 34,205 and 34,107, at which time he either denied or
16 attempted to qualify his answers. The only purpose of
17 offering this evidence now is to prove that the questions
18 and answers read by me were in fact part of his interro-
19 gation, and should be proved accordingly.
20

21 THE PRESIDENT: Mr. Cunningham.

22 MR. CUNNINGHAM: If the Tribunal please, the
23 same objection goes now as went then, that the documents
24 do not prove anything. If there is a contest between
25 what OSHIMA claims he said and what OSHIMA actually said
to the person who took this interrogation, the only and

1 the best way to prove what he actually said is to bring
2 the person to whom he said it here to prove it, not try
3 to prove it by what they claim he said, because that
4 does not establish the fact any more thoroughly than it
5 was before. All we want is the fact, and these docu-
6 ments don't help us to establish the fact; they only
7 carry out the contention of the prosecution, what their
8 interpreter said OSHIMA said. Now, that is a matter
9 that ought perhaps to be referred to the Language Board
10 if they are in doubt as to what he said at the time.

11 Now, if Lieutenant Commander Huggins, or who-
12 ever it was, could come here with his interpreter, with
13 his original notes, that would give us some help, but
14 certainly these documents don't give us any help.

15 THE PRESIDENT: I suppose, then, he would come
16 here and formally swear to the accuracy of these docu-
17 ments?

18 MR. CUNNINGHAM: Oh, no.

19 THE PRESIDENT: Well, you know he would.

20 MR. CUNNINGHAM: He wouldn't have any right to,
21 your Honor; he would have to bring the interpreter who
22 heard what Ambassador OSHIMA said, don't you see?

23 THE PRESIDENT: He also would say that that was
24 said, no doubt. Otherwise, he would say that he made
25 mistakes.

1 MR. CUNNINGHAM: Well, now, that was just a
2 general objection. Can we take an objection to each
3 document specifically?

4 THE PRESIDENT: If they are genuine objections
5 and not directed merely to the wasting of time, we must
6 entertain them. But proceed. Give us an example on
7 the first, "A." Perhaps you are not objecting to "A";
8 it may be some other letter.

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1 MR. CUNNINGHAM: A -- yes, I have something to
2 say as to that. I might say that A is useless, because
3 it carries out our theory of the case that it was the
4 duty of the Ambassador when he went to Berlin to deter-
5 mine what Russia was going to do and what Germany was
6 going to do in relation to Russia. Therefore this
7 document is immaterial as far as the prosecution's case
8 is concerned.

9 Now, Mr. Blakeney has an objection to one of
10 the documents that he wants to make. But if you want
11 the objections to B and C, I can give you them as far
12 as I am concerned, but none of them has any bearing on
13 the issues of the case. None of them has any probative
14 value. It is what he actually said to the interpreter
15 that is important, not what the prosecution contends he
16 said.

17 THE PRESIDENT: Major Blakeney.

18 MR. BLAKENEY: I am concerned with No. 3355-B,
19 in which the defendant OSHIMA purports to state the
20 attitude of Ambassador TOGO toward some proposed treaty
21 at some date apparently in 1938.

22 I think it worth calling to the Tribunal's
23 attention that in cross-examination the defendant
24 OSHIMA six times between pages 34,095 and 34,099 of the
25 record stated unequivocally that he never discussed

1 this matter with Ambassador TOGO and therefore could
2 not and did not know his viewpoint, and he took that
3 occasion to explain the circumstances fully. So far,
4 therefore, as this interrogation might otherwise be
5 considered to bear on the state of mind and attitude
6 of the defendant TOGO, I submit that its probative value
7 is nil and that it has no importance toward that end.

8 THE PRESIDENT: These documents were tendered
9 as one and we will hear the objections from Mr. Cunningham
10 only.

11 MR. CUNNINGHAM: Your Honor, there are three
12 different documents and we have been preparing objec-
13 tions between us, and we can't anticipate that the docu-
14 ments will be --

15 THE PRESIDENT: Very well, in those circum-
16 stances we will hear Mr. SHIMANOUCHI.

17 MR. SHIMANOUCHI.

18 MR. SHIMANOUCHI: I wish to object to the
19 third document, No. 3355-C. According to this document,
20 OSHIMA is purported to have said that in the event
21 Japan or Germany is attacked by a third power, this
22 purported Commission has the authority to decide the
23 question of participation in war. But according to
24 prosecution exhibit 955, the following is stated: The
25 purported Commission was established in three places:

1 Tokyo, Berlin, and Rome. Furthermore, this Commission
2 was composed of the Foreign Minister of the country
3 where the Commission was established, as well as the
4 two ambassadors stationed there. There was no agency
5 to unify or control these three commissions. It is
6 clear therefore that it is impossible for such a
7 Commission, having such a structure, to have the
8 authority to decide such an important matter as partici-
9 pation in war. Hence, what OSHIMA said in the course
10 of his cross-examination is proper and based upon fact.
11

12 THE PRESIDENT: Well, now, that has nothing to
13 do with the objection. This man is really summing up,
14 addressing, as we call it in our country.

15 "We will recess for fifteen minutes.
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17 (Whereupon, at 1045, a recess was
18 taken until 1100, after which the proceedings
19 were resumed as follows:)
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MARSHAL OF THE COURT: The International

1 Military Tribunal for the Far East is now resumed.

2 THE PRESIDENT: Captain Kraft.

3 LANGUAGE ARBITER (Captain Kraft): If the
4 Tribunal please, the following language correction
5 is submitted: Exhibit No. 3809-A, page 1, line 10,
6 record page 37,875, line 2, insert quotes ("") after
7 the word "characteristics"; page 2, last line, record
8 page 37,876, line 18, delete quotes ("") after the
9 word "robot."

10 THE PRESIDENT: Mr. Cole.

11 MR. COLE: May it please the Tribunal, on
12 behalf of General MUTO and on the basis of the
13 Arbitration Board's recommendation, I respectfully
14 request that the Tribunal reconsider the admissibility
15 of the document admitted as exhibit 3809-A.

16 I can be very brief on this point because
17 the Arbitration Board has borne out exactly what I
18 contended at length yesterday.

19 MR. TAVENNER: If the Tribunal please, may I
20 ask that that matter be considered at the time that we
21 close this particular phase when we will have present
22 the person who handled it for the prosecution.

23 THE PRESIDENT: Yes, that will be done.

24
25 Mr. SHIMANOUCHI.

1 MR. SHIMANOUCHI: The contents of IPS document
2 3355-D are not important as it relates to the present
3 issue. The matter taken up in this particular docu-
4 ment is something which is completely outside of the
5 knowledge of the accused OSHIMA inasmuch as it is related
6 to an order issued by the Fuehrer's headquarters on the
7 5th of March 1941. On this point the prosecution has
8 interrogated OSHIMA as to the reason for Hitler's
9 issuing of this order -- of what OSHIMA thought why.
10 There is no reason for OSHIMA to know even though he
11 was asked such a question.

12 THE PRESIDENT: That is useless argument,
13 obviously. That does not go to the credibility of
14 OSHIMA at all. We only look at his answers.

15 MR. SHIMANOUCHI: Moreover, OSHIMA has
16 replied to this question that he did not know. Further-
17 more, OSHIMA has stated on record page 34,198 that
18 there must be some misunderstanding. He stated that
19 there must have been some mistranslation or misunder-
20 standing on the part of the interrogator -- on the
21 part of the interpreter, correction.

22 THE PRESIDENT: The objections are overruled
23 and the documents admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution document
25 No. 3355 will receive exhibit No. 3825 for identification

1 only; and the excerpts therefrom, being prosecution
2 documents No. 3355-A, B, C and D, will receive exhibits
3 Nos. 3825-A, B, C and D, respectively.

4 (Whereupon, prosecution document
5 No. 3355 was marked prosecution exhibit
6 No. 3825 for identification; the excerpts
7 therefrom, prosecution documents No. 3355-A,
8 No. 3355-B, No. 3355-C, and No. 3355-D, were
9 marked prosecution exhibits No. 3825-A, 3825-B,
10 3825-C and 3825-D and received in evidence.)

11 MR. TAVENNER: If the Tribunal please,
12 this completes the testimony under order list 6.

13 THE PRESIDENT: We received a list 11-A
14 this morning. Are we to expect any more?

15 MR. TAVENNER: There will be 13 order lists
16 in all.

17 THE PRESIDENT: That suggests you will not
18 complete your evidence in reply this week.

19 MR. TAVENNER: I am certain of that. There
20 is a possibility of completing all of it except 13,
21 although 12 may run over into Monday of next week.

22 THE PRESIDENT: Mr. Sandusky.

23 MR. SANDUSKY: If the Tribunal please, I
24 continue with order list No. 7 relating to the accused

25 SHIRATORI.

1 THE PRESIDENT: There are some matters to
2 be cleared up, but you are not ready yet; is that so,
3 Mr. Tavenner?

4 MR. TAVENNER: I have had no opportunity to
5 hear yet whether the attorney is available.

6 THE PRESIDENT: Mr. Sandusky.

7 MR. SANDUSKY: I offer in evidence IPS docu-
8 ment 4040-C which is a telegram dated 1 November 1938
9 from Ambassador Ott to the German Foreign Office in
10 which Ott reports working through SHIRATORI to influence
11 Prime Minister KONOYE. This document is offered in
12 evidence to contradict SHIRATORI's statement on cross-
13 examination at transcript 35,095 that he had no special
14 conversation with Ott prior to leaving for his post
15 in Italy and his specific denial at transcript 35,096
16 that Ott had used him to influence Prince KONOYE. We
17 urge the importance of this document as one showing
18 the beginning of SHIRATORI's active collaboration with
19 Ott to bring Japan more closely into the Axis camp.

20 THE PRESIDENT: Mr. Caudle.

21 MR. CAUDLE: If the Tribunal please, I will
22 have to object to this because exhibit 3579, the
23 interrogation of Ott by me, clearly shows the nature
24 of Ott's telegram. Ott knew that he had been distrusted
25 by Ribbentrop; therefore Ott mentioned SHIRATORI's name

1 in his telegram for the reason that he might add
2 weight to the report in the mind of the German Foreign
3 Minister. It appears to me that this article here,
4 this item has no probative value. One other item, sir:
5 Ott has gone back. These items were not brought out
6 before when he could have been questioned about it.

7 THE PRESIDENT: That point has been put
8 frequently. By a majority the objection is overruled
9 and the document admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution document
11 No. 4040-C will receive exhibit No. 3826.

12 (Whereupon, the document above
13 referred to was marked prosecution exhibit
14 No. 3826 and received in evidence.)

15 MR. SANDUSKY: (Reading) "German Embassy,
16 Tokyo.
17 "1 November 1938.
18 "Political Report.
19 "Contents: Japan's attitude towards the
20 European crisis.

21 "Prime Minister Prince KONOYE at two meetings
22 during the days of crisis vigorously expressed his
23 high esteem for the Germany policy but noticeably
24 avoided going deeper into conversations which would
25 fix clearly the Japanese attitude. I have endeavored

37,984

1 through the new Ambassador to Rome, Mr. SHIRATORI,
2 who is especially active in favor of the anti-Comintern
3 policy, to influence him in the direction of a
4 stronger expression. His congratulatory telegram to
5 the Fuehrer and Reich's Chancellor, by which act he
6 shook off his proverbial reticence in an unusual
7 manner, may have been based upon such influence.

8 "(Signed) Ott."

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With the permission of the Tribunal, I wish
1 to offer the next two documents on the order list at
2 the same time because they relate to the same inci-
3 dent. Document 4047-F is a telegram dated 4 Sep-
4 tember, 1939 from Weizsaecker in Berlin to the German
5 Embassy in Rome, and document 4034-F is a telegram
6 dated 9 September, 1939 from Mackensen in Rome to the
7 German Foreign Office. Both concern the arrangements
8 being made for SHIRATORI to see Ribbentrop in Berlin
9 on his return to Japan from Italy. The importance
10 of this matter is indicated by the attempt of SHIRA-
11 TORI in his affidavit, at transcript 35,044, to dis-
12 credit exhibit 2232, the exhibit in our case in chief
13 which first brought this subject into evidence; and
14 further, on his cross-examination, at transcript.
15 35,121, SHIRATORI specifically denied the matter set
16 forth in these two German telegrams. Apart from the
17 rebuttal value of these telegrams, we urge their
18 importance on the ground that they indicate SHIRA-
19 TORI's determination to continue his collaboration
20 with the Nazis after his government had officially
21 terminated negotiations for an alliance.

MR. CAUDLE: Mr. President, it has already
23 been brought out in evidence that MR. SHIRATORI did
24 not go to Berlin but returned by way of America. So
25

this document has no material value whatsoever.

1 THE PRESIDENT: By a majority, the objections
2 are overruled and the documents admitted on the usual
3 terms.

4 CLERK OF THE COURT: Prosecution document
5 No. 4047-F will receive exhibit No. 3827; and prose-
6 cution document No. 4034-F will receive exhibit No.
7 3827A.

8 (Whereupon, documents 4047-F and
9 4034-F were marked prosecution exhibits
10 3827 and 3827A, respectively, and received
11 in evidence.)

12 MR. SANDUSKY: (Reading)

13 "Berlin, 4 September 1939

14 "Deputy Minister

15 "ROME

16 "Please inform SHIRATORI that Reich Foreign
17 Minister will gladly see him at the given time in
18 Berlin. Please keep in contact with SHIRATORI and
19 note his departure."

20 signed "Weiszaecker"

21 "Rome, 9 September 1939"

22 Response "To Telegram dated 4, No. 465.

23 "SHIRATORI, whom I informed in accordance
24 with my instructions, has in the meantime dropped the

1 idea to return via Siberia. He regrets greatly not
2 to be able to see Reich Foreign Minister again, but
3 plans to ask Ambassador OSHIMA, who will within a few
4 days come to Rome, to transmit to Reich's Foreign
5 Minister what he wanted to state to him personally."

6 (signed) "MACKENSEN"

7 Item No. 4 on the order list is being with-
8 drawn.

9 I next offer in evidence IPS document 3352-A
10 which is an article from the Asahi Shimbun of 29
11 August, 1940 which describes the first meeting of
12 the Preparation Committee for a new system on 28
13 August, 1940 and which notes the participation of
14 the accused SHIRATORI as a member of that committee.
15 This document is offered in evidence to contradict
16 Ott's assertion in his interrogatory, at transcript
17 34,878, that he was in error when he reported to his
18 government on 23 August, 1940 the formation of such
19 a commission with SHIRATORI as a member to work out
20 a new system of state affairs on an authoritarian
21 model. The report which Ott attempted to impeach is
22 now in evidence as exhibit 548 at transcript 6,296.

23 If your Honors please, we submit that this
24 report has probative value with respect to the fact
25 of the meeting and to the fact of SHIRATORI's attend-

1 ance. We urge that a simple account of these simple
2 facts does not involve the kind of opinion reporting
3 that the Tribunal has found questionable in the past.
4 And, apart from its substantive value, the document
5 is important in that it, again, demonstrates the
6 facts agree with Ott's original official reports and
7 do not support the recent repudiations he made on
8 behalf of the accused SHIRATORI.

9 MR. CAUDLE: Your Honor, I will have to ob-
10 ject to this because Count ARIMA, who was the Sec-
11 retary-General of this society, testified that
12 SHIRATORI was a member of the Preparation Committee,
13 that is, in his affidavit, and it was translated as
14 "Arrangement Committee," but that he did not take any
15 active part and generally absented himself from the
16 meeting. That is record page 35,021.

17 THE PRESIDENT: You have said all you use-
18 fully can say, I think, Mr. Sandusky. By a majority,
19 the objection is sustained and the document rejected.
20

21 MR. SANDUSKY: I next offer in evidence IPS
22 document 4032-B which is a telegram dated 27 January,
23 1941 from Ambassador Ott to the German Foreign Office
24 and which relates to advice given by SHIRATORI and
25 OSHIMA concerning German recognition of the Wang
 Government in China. Ott also notes that they advised

1 with MATSUOKA on this matter. This document is
2 offered in evidence to contradict SHIRATORI's denial
3 on cross-examination at transcript 35,122 that he or
4 OSHIMA advised with either Ott or MATSUOKA on this
5 specific matter. The document also is offered to
6 disprove SHIRATORI's statement in his affidavit at
7 transcript 35,048 that his position as Foreign Office
8 adviser was a sinecure without any functions and his
9 further statement, at transcript 35,050, that, as
10 adviser, he was not interested in MATSUOKA's diplo-
11 matic moves.

12 THE PRESIDENT: Mr. Caudle.

13 MR. CAUDLE: Mr. President, I will have to
14 object to this because of the interrogation of Ott
15 that I referred to before which shows that his tele-
16 grams are not what they were purported to be; and
17 these new items are being introduced without an
18 opportunity to question him.

19 THE PRESIDENT: By a majority, the objection
20 is overruled and the document admitted on the usual
21 terms.

22 CLERK OF THE COURT: Prosecution document
23 4032-B will receive exhibit No. 3828.

24 (Whereupon, the document above
25 referred to was marked prosecution exhibit

No 3828 and received in evidence.)

1 MR. SANDUSKY: (Reading)

2 "Tokyo, 27 January, 1941

3 "At my quite private farewell breakfast which
4 I gave for Ambassador OSHIMA today, he and Ambassa-
5 dor SHIRATORI directed the conversation to the topic
6 of recognition of Wang Ching-wei. Both Ambassadors
7 advocated the view that Japan's request to Germany
8 for recognition of Wang Ching-wei is not advisable
9 at this time in order not to decrease the possibility
10 of a later German influence on Chiang Kai-shek. Both
11 Ambassadors found understanding for this view from
12 the Foreign minister. OSHIMA expressed the intention
13 to inquire from the Reich Foreign Minister after
14 his arrival in Berlin, whether a special representa-
15 tive of the Reich's Government could be sent in order
16 to influence Chiang Kai-shek.

17 (signed) "OTT"

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1 I next offer in evidence IPS document 4062
2 which is a telegram dated 3 July 1941 from Ribbentrop
3 to Ott specifically directing him to determine and
report upon SHIRATORI's state of health.

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This document is offered to rebut Ott's at-
tack on exhibit 1113, his own report to the German
Foreign Office, in his interrogatory at transcript
34,883. He there attempted to minimize the importance
of his meeting with SHIRATORI on or about 7 July 1941
by claiming that it was a casual, neighborly visit of
no significance. The document is also offered to rebut
SHIRATORI's statement in his affidavit at transcript
35,051 that this particular visit was "quite an informal
one."

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Aside from demonstrating the lack of substance
in the Ott and the SHIRATORI denials, this document
shows the importance of SHIRATORI and his activities
to his German collaborators.

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MR. CAUDLE: May it please the Tribunal: Mr.
SHIRATORI's illness already has been sufficiently
placed in evidence by Dr. MURAMATSU's affidavit, record
page 35,013 to page 35,018. This matter is repetitive
and has no materiality whatsoever.

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THE PRESIDENT: By a majority the objection is
overruled and the document admitted on the usual terms.

1 MR. CAUDLE: I want to object also to the
2 introductions of these documents; they are about four
3 times as long as the document itself.

4 CLERK OF THE COURT: Prosecution document
5 No. 4062 will receive exhibit No. 3829.

6 (Whereupon, the document above
7 referred to was marked prosecution exhibit
8 No. 3829 and received in evidence.)

9 MR. SANDUSKY: (Reading) "3 July 1941
10 No. 591

11 "You reported some time ago that SHIRATORI
12 was unfortunately having to leave political discussions
13 there as a result of serious illness. When I asked
14 the Japanese Ambassador to Rome when I met him in
15 Venice how SHIRATORI was getting along, he was very
16 astonished to hear of an illness and claimed to have
17 knowledge that SHIRATORI was as well as ever. He had
18 only recently had good news from him. I request a
19 telegraphed report on SHIRATORI's true state." Signed
20 "Ribbentrop"

21 MR. CAUDLE: I beg to remind the Tribunal
22 that General Ott himself wired Ribbentrop that he was
23 ill and that he had visited him on two occasions.

24 MR. SANDUSKY: If it please the Tribunal,
25 the next document on the order list is being withdrawn.

I next offer in evidence IPS document 905
1 which is a report of the Secretary General of the
2 Metropolitan Police Board regarding a meeting of the
3 League for the Sacred War dated 18 June 1940 and which
4 contains the essence of an address by the accused
5 SHIRATORI on that occasion.

6 This document is offered in evidence to disprove
7 the statement of SHIRATORI on cross-examination at
8 transcript 35,123 that there was no instance of his
9 opposing the policy of the YONAI-ARITA Cabinet and to
10 contradict his two specific denials, also at transcript
11 35,123, of ever having expressed an opinion to the
12 League for Sacred War calling for the overthrow of
13 the YONAI-ARITA Cabinet. This document is also offered
14 to rebut his statement in his affidavit at transcript
15 35,047, that as an ambassador on the waiting list with
16 no political connections whatever, he had no knowledge
17 at all of the circumstances concerning the fall of the
18 YONAI-ARITA Cabinet.

19 THE PRESIDENT: Mr. Caudle.

20 MR. CAUDLE: SHIRATORI denied this assertion,
21 and, furthermore, it has no probative value and I wish
22 to object to it. And further, sir, it comes from the
23 so-called notorious Special Police which still gives
24 it no probative value.

1 THE PRESIDENT: By a majority the objection is
2 overruled and the document admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution document
4 No. 905 will receive exhibit No. 3830.

5 (Whereupon, the document above
6 referred to was marked prosecution exhibit
7 No. 3830 and received in evidence.)

8 THE PRESIDENT: Do you propose to read the
9 lot?

10 MR. SANDUSKY: No.

11 "Confidential

12 "Received July 19th, 1940

13 "#Kan-Jo-Ho/2131 of the Secretary General
14 of the Metropolitan Police Board, dated June 18, 1940.

15 "Re: Permanent Secretary Meeting of the Par-
16 liamentary Members' League for the Consummation of the
17 Sacred War /Seisen Kantetsu Giin Remmei/, and Holding
18 of People's Round-table Conference on the Current Situa-
19 tion."

20 I omit from that point down to the section
21 Roman numeral II at the bottom of the page.

22 "II) People's Round-table Conference on the
23 current situation (Organizing Committee of the Promoters'
24 Committee).

25 "The above round table conference was held

1 today at the Hibiya Matsumotoro restaurant, starting
2 from 2 p.m., under the joint sponsorship of the Parlia-
3 mentary Members' League for the Consummation of the
4 Sacred War and the National League for the establishment
5 of the Far East. The attendants were:"

6 I shall omit the next except to note included
7 is the name SHIRATORI.

8 I shall omit from there to the third to the
9 last paragraph of the page.

10 "On this occasion, Ambassador SHIRATORI to
11 Italy gave a speech which may be summarized as follows:

12 "Being a governmental servant, I feel I have
13 to refrain from making recourse to language insinuating
14 the overthrow of the Cabinet, but as regards the re-
15 orientation of Japan's foreign policy, I may say that
16 it appears that we have already missed the opportunity
17 when we consider the situation in the light of the
18 present advance of Germany. This, however, does not
19 mean that we can see no prospect at all.

20 "Nevertheless, I feel it absolutely impossible
21 to entertain any hope in this regard as long as the
22 persons who opposed the proposition of a Japan-Germany-
23 Italy military alliance remain to hold the ministerial
24 posts in the cabinet. (Thus, he used words insinuating
25 the overthrow of the Cabinet)"

1 If it please the Tribunal, that concludes
2 evidence with respect to the accused SHIKATOKI.

3 MR. SUTTON: May it please the Tribunal.

4 THE PRESIDENT: Mr. Sutton.

5 MR. SUTTON: We present rebuttal evidence with
6 regard to the defendant HATA. The prosecution tenders
7 in evidence IPS document 3333-A.

8 THE PRESIDENT: For what purpose, Mr. Sutton?

9 MR. SUTTON: ARITA testified, exhibit 3300,
10 R. 28,945-6, that the YONAI Cabinet was opposed to the
11 Tripartite Pact; that, "General HATA was the War Min-
12 ister in the YONAI Cabinet and throughout his tenure
13 of office he was in full accord with the policy of
14 the Cabinet and cooperated fully with it." He further
15 stated, "I know General HATA opposed the Tripartite
16 Pact from the days when it was first discussed in Japan."

17 YONAI testified, exhibit 3198, R. 28,917-8,
18 "with respect to the Tripartite Pact with the Axis
19 countries, my Cabinet was completely opposed to it. . ."
20 He further testified that General HATA, who was his
21 War Minister, "earnestly cooperated with my Cabinet's
22 policy." He admitted, R. 28,921, that he was interro-
23 gated by an officer of the U.S.S.R. on 15 May 1946.
24 He denied replying to a question put to him as follows:

25 "Q. What point of view concerning the

conclusion of a military alliance between Japan and
1 German, did HATA, Shunroku support?

2 "A. HATA, Shunroku thought that the conclusion
3 of a treaty between Japan and Germany at that time
4 would be advantageous to Japan."

5 When the prosecution requested that YONAI
6 be recalled as a witness for further examination, the
7 defense objected and the Chief of Counsel said, R.
8 29,063, "We intend, Mr. President, in rebuttal to
9 offer statements made by YONAI germane to the issue and
10 highly important and will consider it proper rebuttal,
11 but we may be met with the objection that he hasn't
12 been tendered the precise questions. We are attempting
13 to clear that up only by recalling him." The President
14 replied, R. 29,064, "You merely want to be fair to
15 YONAI. You offer to be fair to him. His counsel ob-
16 jects and that is all you need do, Mr. Chief of Couns'l.
17 That is your argument as we understand it. In those
18 circumstances there is no need to recall YONAI. You
19 may tender that evidence in rebuttal."

20
21 In rebuttal of the foregoing testimony of
22 AHITA and YONAI and in line with the statement made
23 to the Tribunal by the Chief of Counsel and the reply
24 of the President of the Tribunal above quoted, we
25 offer for identification the interrogation of YONAI,

37,998

Mitsumasa conducted 15 May 1946, IPS document 3333,
1 and we offer in evidence the following three excerpts
2 therefrom, being IPS document No. 3333-A.

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1 MR. LAZARUS: Mr. President, in view of the
2 President's remarks at the time that the recall of
3 YONAI was requested, I will not object to the document
4 on the ground that YONAI was not properly confronted
5 with his interrogation. But I do wish to call the
6 Tribunal's attention to the next to the last question on
7 the first page and its answer. I wish to point out to
8 the Tribunal that two questions and answers later on
9 the original which is filed here the answer given by
10 YONAI at that time is, "I did not discuss this matter
11 with HATA. I only know that the general opinion held
12 by military circles was that my cabinet was weak." That
13 was in answer to the question with reference to the Tri-
14 partite Pact, "But you discussed this matter with HATA,
Shunroku."

14 Shunroku."

15 We contend that the excerpts as presented to

16 this Tribunal are incomplete and we ask leave on the

17 occasion of surrebuttal to present the balance of this

18 interrogation which will give a complete picture to the

19 Tribunal.

22 the usual terms.
23 CLERK OF THE COURT: Prosecution document
24 No. 3333 will receive exhibit No. 3831 for identifica-
25 tion only, and the excerpt therefrom, being prosecution
document No. 3333-A will receive exhibit No. 3831-A.

(Whereupon, the document above referred to was marked prosecution exhibit No. 3831 for identification, the excerpt therefrom being marked prosecution exhibit No. 3831-A and received in evidence.)

5 MR. SUTTON: I read exhibit 3831-A:
6 "Excerpts from the Interrogation of YONAI,
7 Mitsumasa Conducted 15 May 1946.

8 "Q From January 1940 till June of the same year
9 you were Premier. What are the reasons of you and your
10 cabinet's resignation?
11

12 "A Minister of War HATA, Shunroku resigned.
13 Military circles did not put forward a successor for
14 the post of Minister of war. That forced the resigna-
15 tion of the Cabinet.

16 "Q What were the reasons for the resignation of
17 Minister of War in your Cabinet?

18 "A The reason for the resignation of Minister
19 of War was that my Cabinet was by the composition a
20 weak one and the Minister of War, being in the Cabinet,
21 was unable to exercise the control over Army.

22 "Q Were there any misunderstandings between HATA,
23 Shunroku and you?

24 "A Yes, there were misunderstandings between
25 the Minister of War and myself, and they all boiled

1 down to the point that the Cabinet, being weak, could
2 not carry out the active war policy on which military
3 circles insisted.

4 "Q Realization of what measures did military
5 circles demand and what questions brought about the
6 differences of opinion?

7 "A Differences mainly concerned the question of
8 the alliance between Japan and Germany. Military
9 circles demanded a conclusion of an alliance, and I
10 was opposed to it.

11 "Q What point of view concerning the conclusion
12 of a military alliance between Japan and Germany did
13 HATA, Shunroku support?

14 "A HATA, Shunroku thought that the conclusion of
15 a treaty between Japan and Germany at that time would
16 be advantageous to Japan.

17 * * * * *

18 "Q I ask you to relate in detail from what point
19 of view HATA and military circles could have considered
20 your Cabinet as a weak one.

21 "A My Cabinet was considered as a weak one
22 because at that time the main question of Japanese
23 internal policy was the question of creation of the
24 'Imperial Rule Assistance Association,' and the main
25 question of foreign policy was the question of building

1 up an alliance between Germany and Iran. At that time,
2 therefore, any Cabinet that would not support these
3 two measures would be considered as a weak one, just
4 as any Cabinet that would be in a position to bring
5 about the materialization of these measures would be
6 considered as a strong one. I as the Premier, was in
7 opposition to both of these measures and that is why
8 my Cabinet was considered as a weak one.

9 "Q Tell us about the reasons which prompted you
10 to oppose the creation of political 'Imperial Rule
11 Assistance Association.'

12 "A I was in opposition to the creation of 'Imperial
13 Rule Assistance Association' because this association
14 had the aim of establishing a fascist regime in the
15 country on the same lines as in Germany.

16 "Q Why did you think that creation of 'Imperial
17 Rule Assistance Association' meant the establishment
18 of a fascist regime in this country? What concrete
19 evidence can you bring forward to prove that?

20 "A I was against the creation of 'Imperial Rule
21 Assistance Association' because such an organization
22 meant the establishment of a dictatorship in the
23 country, where the Parliament instead of being the
24 organ of deliberation of questions, would become an
25 organ, where the members would simply vote for and

applaud any measure demanded by dictatorship.

1 * * * * * * *
2 "Q Do I understand you correctly in that the
3 difference between the Army and Navy in 1940 were in
4 the diverse decision of the two cardinal questions
5 of Japanese home and foreign policy: creation of the
6 'Imperial Rule Assistance Association' and the con-
7 clusion of politico-military alliance between Japan
8 and Germany? The Navy was in opposition to both of
9 these measures but the leading military circles in-
10 sisted on the realization of them?
11

12 "A Yes, that is so.

13 "Q Whom of the leaders of the military circles
14 you have in view?

15 "A I am at a loss to name anyone of the military
16 leaders who insisted on the realization of the ideas
17 put forward by middle strata of officers.

18 "Q Who was the most influential person in mil-
19 itary circles at that time?

"A War Minister at that time was HATA. Chief of Military Affairs Section in the War Ministry was MUTO. The Chief of General Staff was SUGIYAMA.

23 "Q These were the people who thought it necessary
24 to create a political organization of the 'Imperial
25 Rule Assistance Association' and conclusion of a

1 military alliance with Germany, reflecting the feelings
2 of a great majority of the Army?

3 "A I cannot answer this question in the affirmative
4 because the War Minister at that time, HATA,
5 Shunroku, for instance, being of opinion that my
6 Cabinet was weak, never disclosed to me his views on
7 the subject. MUTO is known to me by sight only and
8 I cannot say anything about his views. I am telling you
9 what I know. At that time I was a Navy Minister and
10 then Premier and was not in a direct contact with Army;
11 all I can say is that Army leaders at that time were
12 dissatisfied with my Cabinet, considering it as a weak
13 one. Dissatisfactions with the policy of my Cabinet
14 were expressed by HATA, SUGIYAMA and MUTO."

15 MR. LAZARUS: I would like to point out to
16 the Tribunal that the question of naming SUGIYAMA as
17 Chief of the General Staff is incorrect. It was his
18 Imperial Highness, Prince KAN-IN as the testimony
19 during the presentation of the HATA individual case
20 has revealed.

21 And further for the Tribunal's guidance, the
22 question of the Imperial Rule Assistance Association
23 never came up either in the prosecution's case in chief
24 with reference to General HATA nor was one word of it
25 ever mentioned or suggested during his individual

defense.

1 THE PRESIDENT: A Member of the Tribunal
2 would like to know what was YONAI's situation when
3 he was interrogated.

4 MR. SUTTON: So far as I know he was in the
5 same situation at that time as he was when he testified
6 for the defense before the Tribunal. I shall be glad
7 to investigate and if the facts are different will
8 advise the Tribunal.

9
10 The prosecution next tenders in evidence
11 IPS document 3008.

12 YONAI testified that HATA earnestly cooperated
13 with the policies of his cabinet, R. 28,918.

14 ARITA testified, R. 28,946, that War Minister
15 HATA, "throughout his tenure of office, was in full
16 accord with the policy of the cabinet and cooperated
17 fully with it." He further testified that the
18 sovereignty and territorial integrity of China were
19 respected, except within the limit to which force was
20 necessary at times, R. 28,952. That it was the common
21 agreement of the Prime Minister and the Foreign, War
22 and Navy Ministers to loyally and faithfully preserve
23 the provisions of the Nine-Power Pact in relation to
24 China, R. 28,991. He specifically denied that HATA
25 ever stated that the Nine-Power Pact should not be

1 permitted to interfere with military operations in
2 China, R. 28,991.

3 SAWADA testified, exhibit 3205, R. 29,009,
4 that HATA was desirous of peace with China and always
5 insisted it was most urgent to bring an end to the
6 China Incident. That HATA sought to reduce the strength
7 of the Japanese troops in China, but was opposed in
8 this action by the General Staff.

9 TANAKA testified, exhibit 3233, R. 29,411-12
10 that HATA negotiated with Chiang Kai-shek for a peace-
11 ful settlement of the China Incident and wanted to
12 bring about peace by the reduction and then withdrawal
13 of all Japanese troops from China.

14 In rebuttal of this testimony, we offer in
15 evidence IPS document No. 3008, excerpts from the
16 proceedings before the Budget Committee meeting of the
17 75th Diet, held 22 March 1940. The record of the
18 proceedings of the Budget Committee of the 75th Diet
19 has heretofore been marked exhibit 3201 for identifica-
20 tion only, R. 28,973. The document now tendered shows
21 on its face that both ARITA and HATA attended and
22 spoke and that HATA's position with regard to the Nine-
23 Power Pact and the China Incident was exactly opposite
24 to that testified to by ARITA, and that instead of
25 seeking a peaceful settlement of the China Incident

1 with Chiang Kai-shek, as testified to by SAWADA and
2 TANAKA, HATA sought to thoroughly crush the Chiang
3 Kai-shek regime and to support by military force the
4 Wang Ching Wei government in China. We shall read
5 only portions of this document.

6 THE PRESIDENT: We will adjourn until half
7 past one.

8 (Whereupon, at 1200, a recess was
9 taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.
MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Captain Kraft.

6 LANGUAGE ARBITER (Captain Kraft): If the
7 Tribunal please, as directed in the record, page 37,891,
8 lines 19 and 20, we submit the following addition to
9 exhibit No. 3801-B, and record page 37,815, following
10 line 19:

11 TIME 19.
12 " . . . it was a usual pet expression . . .
13 General KOTOZO also was saying something similar."

13 General KOISO also was saying
14 It is recommended that the Japanese counter-
15 part of this English version be inserted in the
16 Japanese copies.

17 THE PRESIDENT: Mr. Tavenner.

18 MR. TAVERNER: If the Tribunal please, in
19 reply to a question from your Honor this morning, I
20 said that there would be thirteen order lists. Thirteen
21 includes 11-A, so the last order list will actually
22 be No. 12.
23

25 THE PRESIDENT: Captain Brooks.
26

24 MR. BROOKS: In relation to the language
25 correction just made of exhibit 3801-B, I ask the

1 Tribunal to reconsider the objection taken to this
2 document at court record page 37,813, on the following
3 ground: there the prosecution offered the document
4 relating to 8 May 1939 in connection with KOISO's
5 testimony at page 32,234-5, and stated that he had
6 never expressed his views on the subject on any other
7 occasion except one, when in May, 1939, at the request
8 of the War Vice-Minister he was asked to help to restore
9 friendly relations between the War and Navy ministers
10 who had offered their views concerning the contents
11 of the conclusion of the alliance. Our objection is
12 that this document does not impeach KOISO, and the
13 date is important, as the date, 8 May 1939, shown on
14 the document confirms KOISO's testimony that this was
15 the only occasion when he expressed an opinion. And
16 it is apparent, if your Honors will look at line 3
17 where it starts, "KOISO said," and there is a quotation,
18 that the quotation of the solution of the China problem
19 was of the army's solution and not of KOISO's. That
20 is made apparent by the language correction in that the
21 sentence, "It was a usual pet expression," is set off
22 by dots and followed by the statement that General
23 KOISO was saying something similar. Since there is only
24 one KOISO, KOISO could not be saying something similar
25 to what he had just said. It would not be logical.

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20 is made apparent by the language correction in that the
21 sentence, "It was a usual pet expression," is set off
22 by dots and followed by the statement that General
23 KOISO was saying something similar. Since there is only
24 one KOISO, KOISO could not be saying something similar
25 to what he had just said. It would not be logical.

1 THE PRESIDENT: We will take those changes
2 into consideration.

3 There is too much argument on too many very
4 small matters. We must put an end to it.

5 MR. BROOKS: Just one brief sentence, if
6 your Honors please; and that is, that following the
7 third sentence the prosecution agreed to incorporate,
8 it makes it clear that in settling this dispute
9 between the army and navy he was asking the Privy
10 Council's opinion on the army's solution. Therefore,
11 it is immaterial and irrelevant as to KOISO's case.
12 Objection is made for that reason.

13 THE PRESIDENT: Mr. Tavenner.

14 MR. TAVENNER: If the Tribunal please, as this
15 matter arose without notice, I would like to have the
16 attorney who handled the matter in the first instance
17 reply if a reply is necessary.

18 THE PRESIDENT: Perhaps you will decide not
19 to offer any further argument. We will go into the
20 matter. We can read.

21 Mr. Cole.

22 MR. COLE: May it please the Tribunal, I
23 raise again the question I raised this morning after
24 the recess regarding the document which was admitted
25 yesterday as exhibit 3809-A. The question was post-

poned this morning because of the absence of Mr. Comyns Carr, but I understand Mr. Brown will take his place at this time.

The finding of the Language Arbitration Board bears out the very thing I claimed somewhat at length yesterday to the effect that the only direct quotation of General MUTO is incorporated in lines 5 to 10 of this document. Since the balance of the document cannot pretend to be a quotation of General MUTO, I renew my objection on the basis of its unimportance, since the quotation from him bears out the very thing that we have claimed in his defense. The balance of the document is a confusing mixture of hearsay, the opinion of HARADA and of TAKAGI, and of directors of bureaus other than the Director of the Military Affairs Bureau and has no weight whatever.

THE PRESIDENT: We will consider the matter.

Mr. Brown.

1 MR. BROWN: Your Honor, in the first place,
2 I would say that in the view of the prosecution, the
3 decision of the Language Arbitration Board does not
4 entirely bear out the contention of my learned friend,
5 Mr. Cole. The sentence in the HARADA diary which
6 immediately follows the exhibit reads: "TAKAGI
7 sounded slightly disappointed when he said this,"
8 showing, in our contention, it was TAKAGI speaking
9 all through, and that it is either TAKAGI or MUTO, and
10 that there is no question of its being Baron HARADA's
11 views.

12 Secondly, I have said--

13 THE PRESIDENT: Well, you are building an
14 argument on something that is not in evidence -- that
15 reference to TAKAGI being disappointed -- unless I am
16 mistaken. I do not recollect seeing that before or
17 hearing that before.

18 MR. BROWN: Your Honor, that is quite correct,
19 but there have been a number of occasions when a further
20 part has been read immediately following the part which
21 was exhibited.

22 THE PRESIDENT: You are really challenging
23 the Language Arbitration Board's findings.

24 MR. BROWN: Oh, no, sir.

25 THE PRESIDENT: Because they left us under

1 the impression that MUTO's contribution ended after the
2 word "characteristics."

3 MR. BROWN: No, your Honor, I am certainly
4 not disputing the finding of the Language Arbitration
5 Board.

6 Your Honor, I said to Mr. Cole, who I under-
7 stand does not dispute the fact, which could also be
8 referred to the Language Arbitration Board if desired,
9 that quotation marks are, I understand, far less used
10 in Japanese than in English.

11 THE PRESIDENT: The Language Board tells us
12 they were used and they end after the word "character-
13 istics."

14 MR. BROWN: Yes, your Honor. Now, I wish to
15 draw the attention of the Tribunal to a sentence on
16 page 37,876 of the record in this exhibit in the part
17 disputed. This reads, "Thus, in this manner the
18 other directors were all in agreement with my proposal,"
19 which, in our submission, shows that although outside
20 quotation marks, it was in fact the views of MUTO that
21 were still being repeated.

22 MR. COLE: May it please the Tribunal, that
23 is the very thing that I claimed yesterday at some
24 length. I said yesterday that, starting with line 11,
25 this document expressed the opinions of directors of

bureaus other than that of the Military Affairs Bureau.
1 There is no question whatever after the decision of
2 the Arbitration Board that the only quotation of
3 General MUTO is contained in lines 5 to 10, which I
4 like.

5 I said yesterday, if your Honor please,
6 and I repeat that this is a glaring example of the
7 defects which are apparent in all of these HARADA
8 excerpts; and I need say nothing further, I believe.
9

10 MR. LAZARUS: If the Tribunal please,
11 with reference to IPS document 3008, which my friend,
12 Mr. Sutton, had offered in evidence just before the
13 recess at noon:

14 In the first place, we object on the ground
15 that this is more properly subject matter which should
16 have been introduced during the prosecution's case
17 in chief. This is from a Diet meeting in 1940, and
18 certainly was available to the prosecution. It cannot
19 be now introduced on the basis that it is newly-
20 discovered evidence or properly that it is in rebuttal.
21

22 At no time did the witnesses YONAI or ARITA,
23 who appeared on behalf of HATA, mention China in
24 their affidavits, or anything concerning the Nine-Power
25 Pact.

At the time when Mr. Keenan sought to

cross-examine the witness ARITA on the Nine-Power Pact,
1 I objected at the time, if the Court will recall. The
2 objection was overruled and now, based on that over-
3 ruling of my objection at that time, the prosecution
4 seeks to expand still further on the basis of an
5 affidavit which contained no allusions to the Nine-
6 Power Pact and introduce this document. During the
7 entire HATA case we made no allusion whatsoever to
8 the Nine-Power Pact.
9

10 In looking over this document, the Tribunal
11 will note that far less than one-half contains remarks
12 by the accused HATA, and the rest of it contains
13 inflammatory remarks by other members of the committee
14 in the Diet. It is completely improper to introduce
15 such evidence at this time against the accused HATA,
16 and we ask that the document be rejected.

17 THE PRESIDENT: By a majority, the objection
18 is overruled and the document admitted on the usual
19 terms.

20 CLERK OF THE COURT: Prosecution document
21 3008 will receive exhibit No. 3832.

22 (Whereupon, the document above
23 referred to was marked prosecution exhibit
24 No. 3832 and received in evidence.)
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MR. SUTTON: I read exhibit 3832, omitting

1 certain parts:

2 "INADA Committee Member:"

3 I omit the next sentence.

4 "Next I would like to introduce questions con-
5 cerning the management of the China Incident, I think the
6 first step is to frustrate the Chiang Kai-Shek Regime,
7 the second, to adjust the concessions and to abolish or
8 readjust the Fa-Pi (Chinese Standard Currency), the
9 third, to take necessary measures for the maintenance of
10 peace, and the fourth, to act judiciously in coping with
11 the Nine Power Treaty."

12 I omit the remainder of this page and resume at
13 the third paragraph, near the top of page 2.

14 "INADA Committee Member"

15 " The fourth is a question concerning the Nine
16 Power Treaty. The Minister of Foreign Affairs has not
17 yet expressed his decisive opinion on the abrogation of
18 the treaty. It was his answer that deep consideration
19 was necessary in regard to the time and the way of
20 abrogating the treaty, for in some circumstances, it
21 may end in good results, and in others, bad. However
22 this is also a very important diplomatic problem, and it
23 is far from my intention to trouble the Minister of
24 Foreign Affairs for his further answer unnecessarily.

1 But I think this Nine Power Treaty is the origin of many
2 obstacles in the management of the China Incident. We
3 may be victorious in every battle we fight, but as long
4 as such a big diplomatic strong point bars our way, it
5 is indeed a matter of undying regret for our people and
6 a source of deepest chagrin. It is hoped that our
7 Government will take into consideration the root and
8 branch of the matter and its importance, and act so as
9 not to make any mistakes. Otherwise though an army of
10 a million men strong may be sent to the front and a
11 million tons of warships be launched, it would, in fact,
12 be very difficult to attain the object of this war.
13 Such being my opinion, I should like to hear the opinions
14 of the two ministers in charge of military affairs, on
15 the Nine Power Treaty from the tactical point of view,
16 so as to make sure whether these two ministers who are
17 the representatives of the Army and the Navy, think the
18 attitude of the Minister of Foreign Affairs towards the
19 treaty inevitable, owing to circumstances.'

20 "HATA The State Minister
21
22 "I should say that it is a matter of course
23 for the Army to follow the Policy of the Government in
24 dealing with the Nine Power Treaty, but as I am now
25 questioned on it, I would like to give my personal
opinion on the subject. The insulting and anti-Japanese

1 policy of the Chiang Kai-shek Regime induced this present
2 incident. In order to correct this misguidance and to
3 bring about everlasting peace in East Asia, Japan is now
4 fighting what one may call a "Holy War." Therefore I
5 believe that the present incident is of course beyond
6 the scope of the Nine Power Treaty. Quite apart from
7 its appreciability, the treaty still exists at present,
8 but I do not think that the carrying out of our military
9 operations ought to be restricted by the existence of
10 this treaty. I also think that the Foreign Minister
11 knows quite well that the general circumstances of East
12 Asia at present are radically different from that of the
13 time the treaty was concluded."

14 I shall not read the remainder of this page
15 and all of the next page and resume at the last paragraph
16 on page 5.

17 "HIRAKAWA, Member of the Committee
18
19 "I should like to inquire of the Minister of
20 War concerning a few important points. In the near
21 future, the Wang Ching-wei Regime will be established
22 and we welcome its birth for both China and Japan. As
23 the Minister of War has already explained, the object
24 of the present China Incident is no other than to re-
25 store peace in the East by subjugating the pro-communist-
anti-Japanese Regime, and realizing friendly intercourse

1 between Japan, Manchukuo, and China, joint defense
2 against communism and economic co-operation, thereby
3 establishing a new order in East Asia. When the Wang
4 Ching-wei Regime is established and our Government
5 recognizes this new political power, our Government will
6 form a friendly connection with this regime and will co-
7 operate in joint defense against communism and will join
8 hands together economically, and then it seems to me that
9 the nature of the war will eventually be somewhat changed.

10 "(ISHIZAKA YUTAKA, acting chairman of the Com-
11 mittee leaves and the chairman resumes his seat.)

12 "In other words the Chiang Regime will be
13 utterly ruined, and when the Wang Regime is newly
14 established, Japan will join hands with this new Govern-
15 ment, and as a result there will be no pro-communism or
16 anti-Japanese sentiments. In that case, would not the
17 nature of the war change? Mr. MATSUMOTO's question to
18 the Minister of Navy was also of a similar nature, but at
19 that time, the Minister of Foreign Affairs replied on
20 behalf of the Minister of the Navy, as he was absent,
21 and his answer seemed to acknowledge the opinion of Mr.
22 MATSUMOTO. The War Minister also gave his reply of which
23 the purport was that, when the Wang Regime is established,
24 the Army must render as much military help as possible
25 to the newly-born Central Government. Though the Wang

1 Government is established, it would not be easy for the
2 new Government to furnish sufficient military strength
3 and therefore as for our country, we must continue our
4 subjugation activities against the Chiang Kai-shek
5 forces with the same military strength we have hitherto
6 been keeping in China. In spite of the war being of
7 such a nature as I mentioned before, if the character of
8 the war should be changed by the establishment of the new
9 Government, I think it is a serious affair as it may
10 effect the morale of the million soldiers at the front
11 and bring slackness into the minds of the hundred
12 million at home. It is my opinion that we should im-
13 plant the idea that even if a new regime is established
14 Japan is not fighting to assist the Wang Tiao-ming
15 Government nor for the maintenance of order in China, but
16 for keeping up our national defense and to suppress
17 Chiang Kai-shek in co-operation with the Wang Tiao-ming
18 Government in accordance with Japan's long-settled policy.
19 What I would like to ask the War Minister is this, as I
20 am of the opinion that it is necessary for him to give a
21 definite statement so that the Army may not be demoral-
22 ized nor the national ardor cooled, what his opinion on
23 this subject is. I would like to hear the War Minister's
24 opinion first of all.
25

- - - - -

"HATA, Minister of State:

1 "Mr. HIRAKAWA's idea is quite reasonable, and
2 it is unnecessary for me to repeat that the object of the
3 present incident is to establish a new order in East Asia
4 by thoroughly crushing the Chiang Kai-shek Government's
5 pro-communist and anti-Japanese policies. Therefore we
6 firmly believe that the establishment of the Wang Regime
7 is only a stage in the incident, and when the new Govern-
8 ment is established, our Army will give every possible
9 assistance, especially military help to the Wang Regime
10 and our policy will be firm and unchangeable as ever until
11 the Chiang Regime surrenders. And as the soldiers at
12 the front and also the troops at home are made to under-
13 stand this idea thoroughly I am sure there will be no
14 fear of demoralization at all even if the change in the
15 war-purpose might arise through the establishment of the
16 Wang Regime. As I said before, the establishment of the
17 Wang Regime is after all only a stage in the incident,
18 and it is a great mistake to take the establishment of
19 the new Regime as the accomplishment of the incident and
20 I am sure such misunderstandings will never arise. How-
21 ever, it would be a very serious problem if demoralization
22 and change in the resolution of our people should be
23 brought about through the establishment of the new
24 Government and if such a case should arise we will demand
25 Government and if such a case should arise we will demand

as a matter of course, of the first-line troops, to
1 raise their morale, and do their best in the military
2 operations until the ultimate aim of the Incident is
3 attained. On the other hand, we must unite and co-
4 operate with each other, and I think it is necessary to
5 impress deeply in the minds of our nation that the
6 establishment of the new Regime is only a stage in the
7 Incident and that we must undergo many more difficulties
8 in the future in order to accomplish the object of the
9 incident."
10

11 I now skip to the last paragraph on page 9.

12 "HATA, Minister of State:

13 "As Mr. MIYAKE asked me also I will answer his
14 questions. Our diplomatic policy is as has been freq-
15 uently declared by the Premier and the Foreign Minister,
16 the so-called non-participation policy which the Army
17 understands as an unfettered and independent policy.
18 You referred to our following England and America or
19 otherwise Germany and Italy, and although I have some
20 opinions on the prospect of the European War from my
21 specialistic viewpoint, I will refrain from discussing
22 it now. In short, there are various blocs, such as
23 Anglo-American Bloc or German-Italian Bloc, but as for
24 us, in order to settle the incident, there will be no
25 change in our policy which is to concentrate all our

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ability to exclude any third power which would persistently interfere with the establishment of the new order in East Asia."¹⁴

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The prosecution offers in evidence IPS document No. 3030-B, exhibit No. 3201 for identification only.

In the cross-examination of ARITA, record 28,968-91, concerning the attitude of the Cabinet toward the Nine-Power Pact, he was asked concerning a speech made by him before a meeting of the Budget Committee of the 75th Diet on 7 February 1940. The proceedings of the Budget Committee of the 75th Diet was marked exhibit 3201 for identification only, record 28,973. We now offer in evidence IPS document No. 3030-B, an excerpt from the proceedings of this Committee. The entire contents of the document now offered in evidence, except the question of Committee Member KUBOI and the reply of HATA on page 3 of the document, were read to the witness and confirmed by him. Since all other portions of the document now tendered in evidence have heretofore been read, record 28,974-9, we will read only the question and answer appearing on page 3.

THE PRESIDENT: Mr. Lazarus.

MR. LAZARUS: No objection, Mr. President. The defense agrees that this document, like the last paragraph in the previous one, absolutely proves our contention that General HATA supported the YONAI

1 Cabinet which Mr. Tavenner and Mr. Keenan praised
2 so highly at all times.

3 THE PRESIDENT: It is admitted on the usual
4 terms.

5 CLERK OF THE COURT: Prosecution document
6 3030-B will receive exhibit No. 3833.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution exhibit No.
9 3833 and received in evidence.)

10 MR. SUTTON: I read the question and answer
11 appearing on page 3.

12 "Committee Member KUBOI: In regard to this
13 question, I should like to ask the opinions of the
14 Minister of War and the Navy Minister.

15 "State Minister HATA: This question is very
16 important, and naturally, I am of the opinion that we
17 should follow the Government's policy."

18 The prosecution now tenders in evidence IPS
19 document No. 3349.

20 The defense offered in evidence the report
21 from the Military Police to the Chief of Staff, dated
22 26 May 1943, of the investigation made with regard
23 to the eight captured officers and men who took part
24 in the raid on Japan, frequently referred to as the
25 Doolittle fliers, exhibit 3129, record 27,902. Included

1 in this exhibit, although not read in evidence, are
2 what purport to be the confessions of these eight
3 prisoners of war. At the time these were tendered,
4 Mr. Tavenner on behalf of the prosecution told the
5 Tribunal, record 27,901, "I feel that the statement
6 should be made to the Tribunal now that the prosecution
7 at the proper time will introduce evidence showing the
8 circumstances and manner in which the statements
9 referred to in this report were obtained." "...It is
10 the position of the prosecution that these statements
11 were obtained as a result of duress and coercion."

12 MIYANO testified, exhibit 3196, record 28,867-914,
13 concerning the circumstances surrounding the capture
14 and trial of these fliers, the part taken by General
15 HATA therein and his attitude in this matter. He
16 further testified that he was a member of the staff
17 of the China Expeditionary Forces and that his Section
18 handled the case concerning the Doolittle fliers and
19 that he was very conversant with the case, record
20 28,880, that these fliers throughout the time they
21 were in China were under the jurisdiction of General
22 HATA. He was asked specifically concerning the
23 treatment accorded to Lt. Nielsen and Lt. Hallmark
24 while they were in China; and he stated that while
25 he and General HATA had the means to know, he did not

1 think they were informed of all the circumstances and
2 facts, record 28,890. He denied any knowledge of
3 any mistreatment of any of the fliers at any time.
4 He testified that he read the reports of the trial
5 of the Doolittle fliers, record 28,900, and when asked
6 concerning the circumstances surrounding this trial
7 denied knowledge of the facts except that he understood
8 the fliers were told the charges that were leveled
9 against them, record 28,899.

10 In conformity with the statement made by the
11 prosecution at the time the defense introduced exhibit
12 3129, above recited, and to show that the alleged
13 statements of these fliers were obtained by duress
14 and coercion, and in rebuttal of the testimony of
15 MIYANO, above recited, and in order to show the treat-
16 ment actually accorded to these prisoners of war while
17 under the command of General HATA, we offer for
18 identification the record of the trial U.S. of America
19 vs. Shigeru SAWADA and others before the Military
20 Commission convened by the Commanding General, U.S.
21 Army Forces, China, held at Shanghai in 1946, being
22 IPS document 3349, and we offer in evidence an excerpt
23 therefrom being a portion of the testimony of Lt.
24 Neilson and of Captain Barr, IPS document 3349-A.

THE PRESIDENT: Mr. Lazarus.

1 MR. LAZARUS: In the first place, Mr. President,
2 Mr. Sutton failed to tell the Tribunal that the
3 alleged confessions were not introduced by the
4 defense of General HATA during his case. I do not
5 know who introduced them, but it is certainly improper
6 to introduce them in rebuttal against his individual
7 case when he didn't even refer to any such matters
8 in his case.

9 Mr. Sutton further stated that this document
10 is introduced in rebuttal of the testimony of MIYANO.
11 The record shows that MIYANO never denied that the
12 Doolittle fliers were tortured or that anything
13 happened to them. Our entire testimony is in line
14 with this document which shows that the fliers were
15 captured in the area of the 16th Army, taken to
16 Shanghai, which is the area of the 11th or 13th Army,
17 and then taken to Tokyo. They never did arrive in
18 Nanking, the Headquarters of General HATA's GHQ.

19 General TANAKA, who testified both for the
20 prosecution and for the defense, stated that it was
21 his Kempeitai who arrived in Tokyo from Shanghai to
22 examine these people and then brought them to Tokyo
23 and then brought them back to Shanghai.

24 The testimony was complete throughout the
25 HATA individual case that it was the 13th Army that

handled this from beginning to end, especially the
1 interrogation and torture of these men that took
2 place. This might be proper rebuttal in some other
3 stage of the trial, but certainly not against the
4 individual case of General HATA who never brought
5 up the fact of whether or not these fliers were
6 tortured or whether or not he had anything to do with
7 their torture.

General HATA had the over-all administrative
8 command. As Chief of GHQ in China he had no control
9 directly over these individual army groups which had
10 everything to do with the capture, then the interrogation
11 and then the transportation to Tokyo of these fliers.

Since there is no evidence connecting the
14 accused HATA with the interrogation of these people
15 before their trial, it could only be presumed that
16 this is introduced at this time against HATA in order
17 to inflame the Court against him when there is no
18 evidence against him.

THE PRESIDENT: The alleged confessions were
20 introduced during the defense case.

MR. SUTTON: Yes, sir.

THE PRESIDENT: I do not think they were read
23 into the transcript, but they are evidence and clearly
24 subject to rebuttal by showing they were not voluntary.

1 The objection is overruled and the document
2 admitted on the usual terms.

3 CLERK OF THE COURT: Volumes I to V inclusive
4 of the record of the trial United States of America
5 vs. Shigeru SAWADA, et al will receive exhibit No.
6 3834 for identification only. The excerpt therefrom,
7 being prosecution document 3349-A, will receive exhibit
8 No. 3834-A.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution exhibit No.
11 3834 for identification; the excerpt there-
12 from was marked prosecution exhibit No.
13 3834-A and received in evidence.)

14 MR. SUTTON: I read exhibit exhibit 3834-A,
15 omitting the formal part.

16 "Shanghai, China Date: 1 May 1946

17 "Chase J. Nielsen, called as a witness on
18 behalf of the prosecution, being first duly sworn, was
19 examined and testified as follows:

20 "DIRECT EXAMINATION (page 39)

21 "Q How serious were the injuries of
22 Lieutenant Hallmark and Lieutenant Meder?

23 "A Well they were so bad they couldn't
24 walk -- that is, walk well. They were pretty crippled
25 up.

"Q On what date were you captured, Captain?

"A We were taken over by the Japs on April 21st.

"Q What did the Japanese do with you after they captured you?

"A Well we were loaded in coolie chairs and taken to the Japanese garrison.

"Q After that happened what did the Japanese do?

"A We were transferred from there by boat up to Shanghai.

"Q How were you treated when they took you to Shanghai?

"A Well, our trip up by boat, three of us were kept in one small room. We were handcuffed and tied by the elbows and tied tight enough to cut off the circulation.

"Q How long were you kept bound in that fashion?

"A We were that way while we were transferred from one place to another but while we were on the boat our arms weren't tied although we were handcuffed and at night the three of us had our legs cuffed together.

"Q How many days did it take you to arrive

at your next destination?

"A Well, we were about four days coming up the coast from where the Japs picked us up until we came to Shanghai.

"Q Where did the Japs take you when you came to Shanghai?

"A Well, I think we were taken out to the airport.

"Q Had Lieutenant Hallmark's and Lieutenant Meder's injuries been treated up to that time?

"A No, they had not. (Page 50-51)

* * *

"Q What treatment was given to you by the questioners at the airfield?

"A Well, through the questioning, when I wouldn't answer any questions I was slapped and kicked around.

"Q Explain to the Commission where you were slapped?

"A I was slapped around the face and head very severely.

"Q Who slapped you?

"A Four of the Japanese guards that took me from the prison into the building.

"Q You stated that you were kicked, where

were you kicked -- what part of your body?

2 "A I wes kicked on the shins.

3 "Q Who kicked you?

4 "A These same Japanese guards.

5 "Q How hard did they kick you?

6 "A Hard enough that I still have the scars
7 today.

8 "Q Captain Nielsen, would you stand out
9 in front of the bench and show the Commission any
10 scars that you have on your leg from the kicking?

11 "A I certainly will.

12 "(The witness showed the scars on his leg
13 to the Commission.)

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1 "Q What questions would they ask you when they
2 were giving you this physical treatment?

3 "A They more or less wanted to find out where we
4 came from.

5 "Q What questions did they ask you, I said?

6 "A Well, where I had come from, if I was Army
7 personnel, and what I was doing in China.

8 "Q How many times would you estimate you were
9 slapped on the head?

10 "A At least 20 or 30 times.

11 "Q Were you bound during this time?

12 "A My hands were behind the chair and my legs
13 were tied to the chair legs.

14 "Q How hard were you slapped?

15 "A Hard enough to make my head ring severely.

16 "Q Did the questioners threaten you with any
17 other treatment while you were being questioned?

18 "A Yes, I was given several different types of
19 torture.

20 "Q Did the questioners tell you they would do
21 anything to you if you did not answer the questions?

22 "A Well, they said that we were captured and no one
23 in America would know where we were and if anything
24 happened to us we would just be listed as missing in
25 action.

1 "Q During this treatment did you answer their
2 questions?

3 "A All I gave them was my name, rank and serial
4 number.

5 "Q What other physical treatment was administered
6 to you at that time?

7 "A Well, I was given what they call the water
8 cure.

9 "Q Explain to the Commission what that was.

10 "A Well, I was put on my back on the floor, with
11 my arms and legs stretched out, one guard holding each
12 limb. The towel was wrapped around my face and put
13 across my face and water was poured on. They poured
14 water on this towel until I was almost unconscious
15 from strangulation, then they would let up until I'd get
16 my breath, then they'd start over again.

17 "Q When you regained consciousness would they keep
18 asking you questions?

19 "A Yes, sir, they did.

20 "Q How long did this treatment continue?

21 "A About twenty minutes.

22 "Q What was your sensation when they were pouring
23 water on the towel? What did you physically feel?

24 "A Well, I felt more or less like I was drowning,
25 just gasping between life and death.

1 "Q During the administration of this treatment
2 did you answer their questions?

3 "A No, I did not.

4 "Q What further mistreatment was administered to
5 you while this questioning was going on?

6 "A Well, the guards then brought in a large bam-
7 boo pole about three inches in diameter. This was
8 placed directly behind my knees, I was made to squat
9 on the floor in this position (indicating squatting
10 position) like a kneel.

11 "PROSECUTOR: For the purpose of the record,
12 I will describe the position the captain demon-
13 strated as a squatting position.

14 "Q Continue with your explanation.

15 "A One guard had a hold of each of my arms. One
16 other guard then placed his foot on my thigh and would
17 jump up and down, causing severe pain in your knees.

18 "Q Explain to the Commission just the sensations
19 you felt from this treatment.

20 "A Well, it felt like my joints were coming apart,
21 but after about five minutes of that my knees were so
22 numb I couldn't feel anything else.

23 "Q During this time did the Japanese keep on ques-
24 tioning you?

25 "A Yes, sir, they did.

"Q What answers did you give them to their
1 questions?

"A I told them I had given them all the informa-
2 tion I had -- my name, rank and serial number.

"Q How long did this treatment last with the bam-
3 boo pole behind your knees?

"A This lasted about fifteen or twenty minutes.

"Q Do you know what happened to the other two
4 members of your crew who were with you?

"A I didn't know at the time, but talking to them
5 later I found out they were given similar treatment.

"A Hallmark said they put him on a stretcher and stretched
6 him out until he felt like his limbs were coming apart.

"Q Were any other threats made to you during the
7 questioning?

"A Well, by that time it was almost sundown.
8 They said, if I won't talk they would take me out and
9 I would be executed.

"Q What else did they tell you? What did they
10 tell you?

"A I was then blindfolded and taken out.

"Q Then what happened?

"A Well, the pain in my legs--I could hardly walk,
11 so one guard took ahold of me under each arm and we
12 marched about three or four hundred feet down a gravel

path.

1 "Q What happened while you were marched down the
2 gravel path?

3 "A I was blindfolded. I couldn't see, but I
4 could hear different groups of Japanese soldiers march-
5 ing around in the area. They were drilling.

6 "Q What else was said while you were marching
7 there in the area?

8 "A Well, after marching about 400 feet we stopped,
9 and as one of these squads marched up, they also stopped
10 by us.

11 "Q What was said or done at that time?

12 "A Well, as they stopped I could hear the rifle
13 butts hit the ground and I thought this was execution.

14 "Q Then what happened?

15 "A Well, after a short conference between several
16 of the officers that was with me and whoever was marching
17 the squad, the interpreter came back and he said, 'We
18 are Knights of the Bushido of the Order of the Rising
19 Sun; we don't execute at sundown; we execute at sunrise.'

20 "Q And then what happened?

21 "A Well, I was taken back to my cell and the
22 interpreter said unless I had decided to talk by morn-
23 ing I would be executed by sunrise.

24 "Q Did anything happen to you while you were in

your cell?

1 "A Well, the blindfold was taken off, but I still
2 kept the handcuffs.

3 "Q What else happened, if anything?

4 "A Well, I was given several vegetable sandwiches
5 and a cup of coffee.

6 "Q Did anything else happen to you there in your
7 cell?

8 "A One of the guards that had been in the room
9 with me before, administering this punishment, came
10 back out and there was a peg in the wall and I was
11 suspended by my handcuffs from that peg, so my toes
12 would just barely touched the floor.

13 "Q How long were you left suspended in that posi-
14 tion?

15 "A Well, that was about seven o'clock at night when
16 I was suspended from the wall. After about three hours
17 I lost consciousness. The next thing I could remember
18 the sun was just coming up and the guards were taking
19 me down from the wall.

20 "Q Did the Japanese ask you any questions when
21 they took you down from the wall?

22 "A I was not asked any questions.

23 "Q What was your physical condition when they took
24 you down from the wall?

38,040

"A "Well, my legs were still in great pain from the
1 treatment the night before and when I let my arms down
2 I thought they were both going to drop off.

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"Q What other sensations did you have that
1 you can explain to the court?

"A Well, from hanging up all night my arms were
3 numb, my shoulders were numb, I was numb clear to the
4 waist.

"Q Were you able to stand up after they took you
6 down from the wall?

"A I was able to stand all right.

"Q What kind of furnishings were in that cell?

"A Two old dirty ragged blankets that were in-
10 fested with all the vermin there is in China; latrine
11 facilities was an open hole in the corner, had no lid on
12 it, and the stench that came out of it was enough to put
13 you to sleep.

"Q From the kicking that the guards administered
16 to you were there any open sores on your legs?

"A Yes, sir, I had three open sores.

"Q Was any medical attention given to your sores
19 on your legs?

"A No, no medical attention was given them.

"Q Do you know what treatment the other boys re-
22 ceived during that night?

"A Well, I don't think they were molested during
24 the night although they did receive about the same punish-
25 ment I did in the afternoon.

"Q You stated that Lt. Hallmark told you he had
1 been given the stretcher treatment. Could you explain
2 that to the Commission?

"A From what he said, it was some sort of a
4 mechanism that they put ropes around his wrists and
5 around his ankles and it was operated with some sort of
6 a lever but every time they move the lever this thing
7 would stretch out."

* * * *

"Q What date was that, Captain Nielsen, if you
10 remember, when you arrived in Tokyo?

"A We arrived in Tokyo about seven o'clock in the
12 evening, April 25, 1942.

"Q Had you been permitted to shave or change your
14 clothing or wash since the time you were captured by
15 the Japanese?

"A No, sir.

"Q What condition was your clothing in at that
19 time?

"A They weren't in very good condition. Some of
21 them were torn up in the plane wreck, after our swim in
22 the ocean we were all muddy and dirty.

"Q Had yo. picked up any vermin or lice while you
24 were being held by the Japanese?

"A Yes, sir, we had.

1 "Q Were you kept bound and handcuffed during the
2 trip into Tokyo?

3 "A We were blindfolded before we left Shanghai and
4 we wore our handcuffs and were tied and continued to
5 wear the blindfold until we were inside the military
6 police headquarters.

7 "Q What was done with you after you arrived at the
8 military police headquarters?

9 "A We were put in solitary confinement, and about
10 15 minutes we were taken out and started to be questioned
11 again."

12 * * * *

13 "Q I believe the question was, Were you mistreated
14 on the first night in Tokyo?

15 "A Yes, I was.

16 "Q What happened to you during this mistreatment?

17 "A I was slapped about the head and face and kicked
18 on the legs.

19 "Q Were you bound in any way?

20 "A Yes, my hands were kept behind the chair and
21 my feet were tied to the legs.

22 "Q How many persons took part in the questioning
23 of you?

24 "A Oh, there were three guards, one interpreter,
25 and two reporters.

1 "Q Where did they kick you and where did they slap
2 you?

3 "A Slapped me about the face and head, and kicked
4 me on the shins.

5 "Q How hard did they kick you and how hard did
6 they slap you?

7 "A They slapped me hard enough to start my head
8 aching and they kicked me on the shins drawing blood and
9 reopening the wounds that I received in Shanghai the day
10 before.

11 "Q What type of questions did they ask you?

12 "A They asked me where I had come from, if I had
13 bombed Tokyo the previous week, if I had been stationed
14 in China or in the Philippine Islands, and if I was
15 American Army personnel.

16 "Q How long did this questioning continue that
17 first night?

18 "A This questioning continued until four o'clock
19 in the morning.

20 "Q During all that period did they continue to
21 mistreat you?

22 "A I was slapped and kicked around nearly all the
23 time.

24 "Q Do you know what treatment was given to the other
25 boys that were in your airplane?

1 "A I found out later they received the same sort
2 or treatment."

3 * * * *

4 "Q During that 18 days of questioning were you
5 allowed to take a bath or shave?

6 "A No, sir.

7 "Q At the conclusion of the 18 days of questioning
8 did you sign any papers?

9 "A Yes, sir, I signed papers.

10 "Q What papers did you sign and what did they
11 consist of?

12 "A Well, they were written in Japanese but they
13 were interpreted.

14 "Q What did the interpreter say the papers read?

15 "A Well, about three weeks after we had bombed
16 Tokyo I was shown maps and charts that the Japs had
17 picked up from one of our airplanes that had been aban-
18 doned; evidently that was the only place they had any
19 information, and through our questioning, after they
20 picked up these maps and charts, we confessed to bombing
21 Tokyo, told them the areas we had bombed, and confessed
22 of leaving an aircraft carrier. Other than that, a
23 small sketch of our life's history -- where we went to
24 school, where we had our army training, that was all it
25 consisted of.

1 "Q When these statements were read back to you did
2 they state you had admitted you bombed schools and
3 churches?

4 "A No, sir, they did not.

5 "Q What targets did the statements say you had
6 bombed?

7 "A Well, the way the statement was interpreted to
8 me was that I had bombed steel mills in the northeast
9 area of Tokvo at the edge of a bay.

10 "Q Did you sign the statement?

11 "A At first I refused, but after being threatened,
12 I signed it.

13 "Q How were you threatened?

14 "A Well, from previous treatment we knew what
15 would happen to us if we did not sign.

16 "Q Were you given a copy of the statement that you
17 signed?

18 "A No, sir, I was given no statement.

19 "Q Do you know whether or not the other men that
20 were with you signed statements?

21 "A Yes, sir, all the men signed after being put
22 under the same threat.

23 "Q Do you know what their statement consisted of?

24 "A From what they said at a later date their state-
25 ment contained almost the same thing as mine, other than

Farrow's crew which had bombed down at Nagoya.

1 "Q Were you kept in solitary confinement during
2 your time in Tokyo?

3 "A We were kept in solitary confinement up until
4 the last two weeks, then Farrow and I were placed in
5 the same cell and the other boys were doubled up in
6 cells.

7 "Q How long were you kept in Tokyo?

8 "A We were in Tokyo from April 25 to June 17,
9 1942."

10 * * * *

11 THE PRESIDENT: That is a convenient break. We
12 will adjourn for fifteen minutes.

13 (Whereupon, at 1445, a recess
14 was taken until 1500, after which the pro-
15 ceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Sutton.

4 MR. SUTTON: I will resume reading exhibit
5 3834-A at page 9:

6 "Q What was the condition of the wounds on your
7 legs at that time when you left Tokyo?

8 "A They were all infected and in addition to
9 that I had many bites from lice and bed bugs that
10 were also infected.

11 "Q Had you been afforded any medical treatment?

12 "A No, sir, I had not.

13 "Q Were you allowed to bathe or shave or clean
14 your clothing during this time?

15 "A No, sir, all the while we were in our cells
16 we wore leg cuffs; we couldn't get our clothing off.

17 "Q Were you given any medical treatment?

18 "A None whatever.

19 "Q Where did they take you after you left Tokyo?

20 "A We were put aboard the train to Nagoya and
21 from Nagoya to Shanghai by boat. (pp 62-63)

22 " * * *

23 "Q What happened to you after you got back to
24 Shanghai?

25 "A Well, as soon as we arrived at Shanghai we

were leaded on the truck and taken down to the Bridge
1 House. (p. 63)

2 "**

3 "Q What happened to you at Bridge House?

4 "A We were taken in and eight of us were put in
5 a cell with fifteen other people. They were Chinese,
6 Japanese, Jews, Dutch, French, every nationality there
7 is in Shanghai.

8 "Q What was the condition of the men when they
9 got back to Shanghai -- their physical condition?

10 "A We were all quite weak, we lost quite a bit
11 of weight; we were able to get around on our own power.

12 "Q Explain to the Commission the condition of
13 this cell that you were put in at Bridge House?

14 "A This cell was approximately 12 feet deep and
15 about 15 feet wide. There were already 15 people in
16 there when we came in, making 23 in total. The latrine
17 facilities was an open box in the corner. (p. 63)

18 "Q What furniture was in the cell you had at
19 Bridge House?

20 "A No furniture at all. We were forced to
21 sleep on the wood floor without any blankets.

22 "Q How long were you held at the Bridge House?

23 "A We were held at the Bridge House for 70 days.

24 "Q During this period were you allowed to bathe

or shave?

1 "A No, sir, we were not.

2 "Q What were you given to eat while you were at
3 the Bridge House?

4 "A At the Bridge House we'd get about a pint of
5 conji, watery rice, for breakfast, four ounces of
6 bread at lunchtime and four ounces of bread at night.
7 We were given maybe as much as two quarts of water for
8 the eight of us in the entire day.

9 "Q What was the physical condition of the men
10 at the end of the stay in Bridge House?

11 "A At the end of our stay at Bridge House 7 of
12 us were able to move around and that was about all.

13 Lt. Hallmark was sick and had to be helped continuously
14 and he had been that way for approximately 10 days.

16 (p. 64)

17 * * *

18 "Q What was the physical condition of the men
19 that were taken before the court?

20 "A Lt. Hallmark was taken in on a stretcher. The
21 rest of us were on our feet but we were in a pretty
22 weak condition.

23 "Q What else transpired at the court martial room?

24 "A After we had made our statements as to our
25 education and air corps training, one of the court

1 "A No, sir, we were not.

2 "Q Do you know whether any of the other fliers
3 were advised of the charges under which they were
4 tried?

5 "A At that trial no one was advised.

6 "Q Were the proceedings interpreted to you in
7 English?

8 "A Nothing was interpreted in English.

9 "Q Was Lt. Hallmark able to sit up in the court
10 room?

11 "A No. Lt. Hallmark was lying on a stretcher.
12 I doubt if he ever knew what was going on, and Lt. Barr
13 was so weak they finally had to get a chair for him to
14 sit in.

15 "Q At this trial did you see any of the state-
16 ments that you had signed in Japan?

17 "A No, sir, I never did see those statements again.

18 "Q When you were brought before that court martial,
19 were you given an opportunity to plead guilty or not
20 guilty?

21 "A No, sir, we were not. As a matter of fact,
22 we didn't even know it was a court martial.

23 "Q When they brought you before the tribunal,
24 were you bound in any way?

25 "A No, we weren't bound but there were about 20

tribunal stood up, read a manuscript in Japanese.

1 "Q Was that manuscript interpreted to you in
2 English?

3 "A I asked the interpreter to interpret it. He
4 asked permission from the court tribunal and it was
5 denied.

6 "Q Did any of the other fliers make any state-
7 ment to the court besides answering the questions as
8 to their name, training, schooling?

9 "A No other statements were made.

10 "Q Do you know the names of the eight fliers who
11 were brought before the court martial?

12 "A Yes, sir, I know the names of the other fliers.

13 "Q Tell the court the names of the fliers who
14 were brought before this court?

15 "A Lt. Farrow, Lt. Hite, Lt. Barr, Lt. Hallmark,
16 Lt. Meder, Sergeant Spatz, Sergeant DeShazer and myself.

17 "Q Were you afforded a defense counsel at the
18 hearing?

19 "A No, sir, we were not.

20 "Q Did any witnesses appear before that tribunal
21 while you were in the court room?

22 "A There were no witnesses.

23 "Q Were you ever served any charges or advised of
24 the charges against you?

1 "A No, sir, we were not.

2 "Q Do you know whether any of the other fliers
3 were advised of the charges under which they were
4 tried?

5 "A At that trial no one was advised.

6 "Q Were the proceedings interpreted to you in
7 English?

8 "A Nothing was interpreted in English.

9 "Q Was Lt. Hallmark able to sit up in the court
10 room?

11 "A No. Lt. Hallmark was lying on a stretcher.
12 I doubt if he ever knew what was going on, and Lt. Barr
13 was so weak they finally had to get a chair for him to
14 sit in.

15 "Q At this trial did you see any of the state-
16 ments that you had signed in Japan?

17 "A No, sir, I never did see those statements again.

18 "Q When you were brought before that court martial,
19 were you given an opportunity to plead guilty or not
20 guilty?

21 "A No, sir, we were not. As a matter of fact,
22 we didn't even know it was a court martial.

23 "Q When they brought you before the tribunal,
24 were you bound in any way?

25 "A No, we weren't bound but there were about 20

1 armed guards in the building or right outside.

2 "Q At this hearing did you or any of the other
3 fliers admit that you had bombed schools, churches or
4 civilians in the raid on Japan?

5 "A No, sir, we did not. Nothing was said about
6 the bombing of Japan.

7 "Q How long did this hearing last?

8 "A From 20 minutes to a half hour. (pp. 66-67)"

9 I will now read a portion of the testimony
10 of Captain George Barr, taken at Schick General Hospital,
11 Clinton, Iowa, 30 December 1945, and introduced in
12 evidence in the SAWADA trial in Shanghai:

13 "Q Did you all go to Nanking, China on the same
14 plane?

15 "A Yes, sir. (p. 10 of Pros. Transc. Exh. 21)

16 ***

17 "Q Were you mistreated at any time?

18 "A That was where I was tortured during question-
19 ing.

20 "Q What time were you brought out for questioning?

21 "A About 8:30 in the evening.

22 "Q The evening of the 20th April 1942?

23 "A Yes, sir.

24 "Q Were you handcuffed and blindfolded?

25 "A Yes, sir.

"Q During the entire examination?

1 "A No, sir, they took the blindfolds off for a
2 while. (p. 11 of Pros. Transc. Exh. 21)

3 * * *

4 "Q Were you mistreated downstairs?

5 "A Yes, when I refused to answer questions.

6 "Q What was done to you then?

7 "A I received an assault by fists while I was
8 handcuffed and blindfolded and later they laid me on
9 the floor and a fellow came in with water and rags and
10 suffocated me. He laid me on the floor and my mouth
11 was gagged with the rags and my nostrils were left
12 open for water to be poured down them.

13 "Q How long was this continued?

14 "A Until I decided that I had enough and would
15 answer questions.

16 "Q About how long?

17 "A It lasted about 20 minutes.

18 "Q Did they stop from time to time?

19 "A Yes, sir, just long enough to ask me if I
20 would talk.

21 "Q Then they would continue?

22 "A Yes, and the water was going down into my
23 lungs. It just stopped your breathing.

24 "Q Do you know who administered this?

1 "A This was administered by soldiers, and the
2 officer described just previously, looked on.

3 "Q Could you describe the soldiers?

4 "A No, I couldn't.

5 "Q Who gave the command for them to administer
6 this treatment?

7 "A This Japanese officer in charge.

8 "Q A few minutes ago, you spoke about being
9 assaulted with fists. Who administered that?

10 "A The Jap enlisted soldiers, but I couldn't
11 describe any of them. When they administered the
12 assault, the officer hadn't entered the room yet and
13 when he entered the room he gave them the signal to
14 stop.

15 "Q How many were beating you?

16 "A Three (3) or four (4).

17 "Q Where did they hit you?

18 "A In the face and body.

19 "Q Did their blows break the skin or blacken
20 your eyes?

21 "A No, sir.

22 "Q What information were they able to get from
23 you after they gave you the so-called water treatment?

24 "A They wanted to know where I came from. After
25 they found that out, they let me go.

1 "Q What information did you give them?

2 "A That we took off from an aircraft carrier.

3 "Q Were the other men questioned and mistreated
4 as well?

5 "A I believe they were from what I heard from
6 Lt. Chase J. Nielsen. He was beaten and hung up by
7 his thumbs. Lt. Robert J. Meder was given the water
8 treatment.

9 "Q Did you witness any of this?

10 "A No.

11 "Q Were they at the Nanking prison the same time
12 you were?

13 "A No, sir, they came a few days later.

14 "Q You were gone when they arrived?

15 "A Yes, sir, I received this information from
16 them at Shanghai, China when I was in a cell with
17 members of the crew of the plane piloted by Lt. Dean
18 E. Hallmark.

19 "Q Were any other members of your plane crew
20 mistreated at Nanking, China?

21 "A When I was brought into a room after this
22 meeting of the board of inquiry, I passed an opened room
23 and fellows were standing around Cpl. Jacob D. DeShazer.
24 He told me later they were using pencils between his
25 fingers and squeezing his knuckles. (pp. 12-13 of

Pros. Transc. Exh. 21)."

1 The prosecution now offers in evidence IPS
2 document 3349-B. With regard to the trial of the
3 Doolittle Fliers in China, MIYANO was asked on cross-
4 examination (R. 28,904) the following question:
5

6 "Did General HATA request the prosecutor of
7 the 13th Army to ask for the death sentence for these
8 fliers?"

9 He replied: "I do not know."

10 He was then questioned concerning his testi-
11 mony given at the SAWADA trial in Shanghai in which
12 the defendants were tried for the unlawful trial and
13 punishment of the Doolittle Fliers. He was asked
14 especially if he did not testify in the SAWADA trial
15 at Shanghai in the very language of the latter part
16 of the document now tendered in evidence. He denied
17 substantially that he had testified to that effect and
18 at record 28,914 he admitted that he was asked the
19 questions quoted in the document now tendered in evi-
20 dence but denied that he made the answers quoted therein.
21

22 In rebuttal of this testimony of MIYANO before
23 this Tribunal, we offer in evidence IPS document 3349-B,
24 an excerpt from the testimony of MIYANO given in the
25 trial of the United States vs. Shigeru SAWADA and
others before the Military Commission convened by the

1 Commanding General, United States Army Forces, China,
2 at Shanghai in 1946.

3 THE PRESIDENT: Mr. Lazarus.

4 MR. LAZARUS: No objection, Mr. President.

5 This document confirms what MIYANO said at the time
6 that his answers were misinterpreted, and the second
7 page of this document also shows that. We also reserve
8 the right to offer some excerpts from the balance of
9 the trial to help fill out the picture for the Tribunal
10 at a later date.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution document
13 3349-B will receive exhibit No. 3834-B.

14 (Whereupon, the document above
15 referred to was marked prosecution exhibit
16 No. 3834-B and received in evidence.)

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1 MR. SUTTON: I will now read this exhibit,
2 omitting the formal parts:

3 "Shanghai, China.

4 "Date 1 May 1946.

5 "Masatoshi MIYANO was called as a witness on
behalf of the defense (p. 277).

6 "DIRECT EXAMINATION (p. 277).

7 "Q Did General HATA order the 13th Army to set
8 up a military tribunal?

9 "A He ordered so.

10 "Q Did he order that the Doolittle Fliers
11 would be tried by this military tribunal?

12 "A Yes. (p. 286)

13 "Q Did Nanking issue any orders to the 13th
14 Army in regards to the treatment of the fliers?

15 "A I do not remember.

16 "Q Was the trial of the Doolittle Fliers ordered
17 by General HATA to be tried at Shanghai?

18 "A Yes.

19 "Q Did you mean by your previous answer that
20 HATA requested the 13th Army prosecutor to ask for
21 the death penalty?

22 "A He requested so.

23 "Q (To interpreter) Will you interpret that
24 answer again?

"INTERPRETER: He said he requested so --
requested that the sentence be executed; he requested
so.

"Q Does he mean the general requested so?

"A Yes, HATA.

"Q Did General MATA request the prosecutor of the 13th Army to ask for the death sentence?

"A He requested the death sentence. (np. 288-289)."

10 In further reply to the inquiry addressed to
11 me by the Tribunal this morning as to the status of
12 YONAI at the time of his interrogation, I find that
13 the statement which I made to the Tribunal this
14 morning is entirely correct.

15 That concludes the presentation of the
16 rebuttal evidence in the HATA phase.

THE PRESIDENT: Captain Kraft.

18 LANGUAGE ARBITER (Captain Kraft): If the
19 Tribunal please, the following language correction
20 is submitted: record page 30,268, line 15, delete
21 "made public" and insert "expressed"; Line 18,
22 delete "statement" and insert "views."

THE PRESIDENT: Mr. Laverge.

25 MR. LAVERGE: The prosecution will now offer
evidence on its order list No. 9.

I offer in evidence IPS document 3121-2-A,
1 a record of the conversation between Foreign Minister
2 TOGO and German Ambassador Ott on 27 October 1941.

3 This document is offered in rebuttal to the
4 testimony by defense witnesses NISHIMURA, record page
5 23,563; and MATSUMOTO, record page 35,466; and by the
6 accused TOGO, record page 35,663, that it was due to
7 Foreign Minister TOGO's initiative and efforts that
8 the secret agreement attached to the Anti-Comintern
9 Pact was abrogated when the pact was prolonged for
10 five years in 1941.

11 It is also offered in rebuttal to the direct
12 testimony of the accused TOGO on page 35,697 of the
13 transcript and his statements under cross-examination
14 on pages 36,060 and 61 of the transcript, that the
15 Japanese proposals "A" and "B" left room for further
16 concessions on the Japanese side and were not intended
17 as the maximum Japanese concessions.

18 It is also offered in rebuttal to the state-
19 ments to the same effect by the accused TOJO under
20 cross-examination, record page 36,702 to 7 and 36,737
21 and 8.

22 THE PRESIDENT: Major Blakeney.

23 MR. BLAKENEY: If the Tribunal please, I have
24 objections to this document, but before stating the

1 grounds of them I understand that the Language Arbitration Board have a correction to make in the document,
2 and I suggest that they do so at this time.
3

4 THE PRESIDENT: Captain Kraft.
5

6 LANGUAGE ARBITER (Captain Kraft): If the
7 Tribunal please, we submit the following language
8 correction:
9

10 IPS document 3121-2-A, page 1, section 1,
11 paragraph 2, lines 8 and 9, delete "I fall in with
12 your view," and substitute "I favor it."
13

14 THE PRESIDENT: Major Blakeney.
15

16 MR. BLAKENEY: Now, on the question of
17 probative value, I think I should mention that the
18 original of this document now being tendered clearly
19 shows on inspection that the last four paragraphs are
20 from a separate and, so far as one can judge from
21 reading it in English, unrelated document; so that
22 this document which purports to be the record of a
23 conversation between Foreign Minister TOGO and Am-
24 bassador Ott is in fact shown both by its content and
25 by its physical form to be mingled parts of at least
two separate conversations. Your Honors will note that
those last four paragraphs in question relate to the
mission of Ambassador KURUSU, which according to all
the evidence in the case had not even been thought of

1 as a thing to be actually accomplished at the date
2 which purports to be the date of this interview,
3 the 27th of October.

4 Additionally on the question of probative
5 value, I point out that this purported conversation
6 is recorded by someone whose identity is not dis-
7 closed, and we have absolutely no guarantee of any
8 nature that it correctly represents even the substance
9 of any conversation which ever occurred.

10 That much on the probative value.

11 On the importance of this document, I think
12 the language correction just made has very effectually
13 disposed of what seemed to be advanced as the chief
14 ground for its introduction; that is, if I understand
15 correctly, this was being offered to show that the
16 suggestion of abrogation of the secret agreement
17 annexed to the Anti-Comintern Pact did not originate
18 with the Foreign Minister but with the German side,
19 a thing which I might remark was never suggested to
20 any of the witnesses who are now alleged to be
21 rebutted by this document. Unless my memory deceives
22 me, and I am quite sure it does not, none of the three
23 witnesses named were ever cross-examined to any extent
24 on that point; in fact one of them did not take the
25 stand, the prosecution waiving cross-examination

altogether.

1 And, finally, this document is one with which
2 neither the defendant TOGO nor the defendant TOJO was
3 confronted in the course of cross-examination. In my
4 submission, therefore, it has alike on the ground of
5 probative value and on the ground of importance no
6 value to the Tribunal.

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1 THE PRESIDENT: Mr. Laverge.

2 MR. LAVERGE: First, your Honor, with regard --

3 THE PRESIDENT: We don't want to hear you
4 further.

5 By a majority the objection is overruled and
6 the document admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution document
8 3121-(2)-A will receive exhibit No. 3835.

9 (Whereupon, the document above
10 referred to was marked prosecution exhibit
11 No. 3835 and received in evidence.)

12 MR. LAVERGE: I will read parts of exhibit
13 3835.

14 "The Talk Between Foreign Minister TOGO
15 and German Ambassador Ott.

16 "From 11:30 a.m. to 12:30 p.m., on October
17 27 at the Foreign Ministry.

18 "1. Re Prolongation of the term of the Anti-
19 Comintern Pact.

20 "Ambassador Ott (This shall be hereinafter
21 abridged as 'O'):

22 "I have come here today under instruction
23 from my home government to ask the view of the Japanese
24 Government on the prolongation of the term of the Anti-
25 Comintern Pact that should lapse on November 25. The

other day I told Chief of Bureau SAKAMOTO that the
1 German Government wants a joint protocol to be drawn
2 up and signed by the original signatory powers and later
3 signatory powers and, in case the Japanese Government
4 agrees with this, wants a joint proposal of Japan,
5 Germany and Italy to be made towards Manchukuo, Spain
6 and Hungary.

7 "Minister TOGO (This shall be abridged as
8 'Minister' in the following):

9 "I heard the report of the Chief of Bureau on
10 your suggestion relating to the prolongation of the
11 term of the Anti-Comintern Pact. I have been taking
12 part in connection with this Pact since its conclusion,
13 and personally have a serious concern with it. As
14 it is one of the fundamental national policies of
15 Japan to prevent propagation of Communism, I myself
16 do not wish the pact to terminate now but desire to
17 prolong it. And, as to the abolition of the secret
18 agreement, I favor it. However, as a resolution of
19 the Cabinet Conference is required before we decide
20 on this matter, the view of our government shall be
21 communicated to you after a decision at a cabinet con-
22 ference. The government also has to refer it to the
23 Privy Council for deliberation as an internal procedure,
24 and for this purpose, some document drawn up jointly by

1 Japan, Germany and Italy is needed. I shall be obliged
2 if the German Government will submit a draft for it.

3 "O": As we have little time before the 27th
4 of next month, I would like to know the decision of
5 the Japanese Government as soon as possible. I will
6 immediately report your talk to my home government.

7 "2. Problems affecting the United States:"

8 I then go over to the middle of page 3.

9 "Minister": I entirely agree with you that
10 the attitude of the United States is not only extremely
11 questionable from a legal viewpoint but also is actual
12 fact German-American relations have become acute and
13 various crises have greatly increased.

14 "I think that Germany was very wise in taking
15 an attitude till the end of September of never being
16 taken in by President Roosevelt's aggressive provoca-
17 tion. I want to know if you hold the same attitude
18 still?"

19 "O": From the facts Fuhrer Hitler has been so
20 tolerant with American actions and that in his speech
21 at the beginning of October he did not refer to the
22 United States, I personally judge that from the German
23 point of view Fuhrer Hitler had to do his best to the
24 utmost limit to avert actual conflict with America.

25 However, it is hard to say if Fuhrer Hitler can maintain

1 this patient attitude or not when American transport
2 ships penetrate into war areas. I believe that Ger-
3 many will think that whoever comes into war areas
4 should take his own responsibility for the result.
5 However, whether Germany for the second time actually
6 fights with the United States or not, a Japanese warn-
7 ing toward the United States might prevent the United
8 States from taking more hostile action against Germany,
9 and might result in prevention of war in my opinion.
10 I think what the United States fears is operations on
11 two fronts and the Japanese attitude should influence
12 that of President Roosevelt.

13 "Minister": Your personal opinion about
14 Germany's attitude toward the United States furnished
15 much for my consideration. The fundamental reason
16 which makes a Japanese warning effective to check
17 American actions is the existence of the Japanese
18 Navy by which we are restraining the United States and
19 preventing President Roosevelt from achieving big
20 movements as he wishes on the Atlantic Ocean and from
21 participating in the war. I could presume from what
22 you have just told me that you and the German Govern-
23 ment are in full understanding of this point, and I
24 appreciate this German view very highly. As to the
25 relations between Japan, Germany and the United States,

I will take into my consideration these points too.

1 "O": You have just said that the resolute
2 attitude of Japan has a great effect upon the United
3 States, but is the mission of Ambassador KURUSU also
4 resolute?

5 "'Minister': Not only the mission of Ambassa-
6 dor KURUSU but also the attitude of the Japanese Gov-
7 ernment is firm. There is a limit to the concessions
8 to be made by our government, and I, as Minister, can
9 not assent to exceeding this limit. But I cannot tell
10 you of the details of this limit.

11 "O": I thank you for your present remarks.

12 "O": I hope I can have more to report to my government
13 later.

14 "'Minister': I also wish to have another
15 chance to talk with you."

16 I offer in evidence IPS document 3116-C, a
17 telegram from Foreign Minister TOGO to his ambassadors
18 in foreign countries, reporting on the progress of
19 the Japanese-American negotiations.

20 This document is offered in rebuttal to the
21 testimony by the accused TOGO and TOJO in regard to
22 the Japanese concessions contained in proposals "A"
23 and "B". The pages of the transcript are the same as
24 the ones quoted in this respect when the previous

document was offered.

1 THE PRESIDENT: Major Blakney.

2 MR. BLAKENEY: I object to the reception of
3 this document on the grounds of its unimportance. Even
4 if the prosecution are naive enough to believe that
5 the Foreign Minister was going to tell all ambassadors,
6 ministers and consuls of the exact state of the nego-
7 tiations, I think had they regarded this as important
8 evidence on that point they would have put this docu-
9 ment to one of the two defendants mentioned in the
10 course of cross-examination.

11 THE PRESIDENT: By a majority the objection
12 is overruled and the document admitted on the usual
13 terms.

14 CLERK OF THE COURT: Prosecution document
15 3116-C will receive exhibit No. 3836.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution exhibit No.
18 3836 and received in evidence.)

19 MR. LAVERGE: I read exhibit 3836, omitting
20 the formal parts.

21 "Addressed to: Ambassador at Peiping, Ambas-
22 sador at Nanking, Ambassador to Manchukuo, Special
23 Envoy at Shanghai, Hongkong, Hanoi, Batavia, Ambassador
24 to Thailand, San Francisco.

"From: Minister TOGO

1 "RE: The Present Situation of the Japanese-
2 American Negotiations.

3 "1. The Government has been holding Imperial
4 Headquarters Liaison Conferences every day since its
5 formation and has been discussing the principal national
6 policies to meet the grave situation which is confront-
7 ing us, and the above, as well as the principal poli-
8 cies in connection with the adjustment of the diplo-
9 matic relations between Japan and the U.S.A., was
10 decided at the council in the Imperial Presence held
11 on the 5th.

13 "2. In regard to the Japanese-American nego-
14 tiations, it was decided to continue the negotiations
15 for the adjustment of diplomatic relations based on a
16 fair footing, and the Government has already opened
17 negotiations. However, there exists a considerable
18 gap, and it is doubtful whether a conclusion can be
19 reached, considering the progress of the negotiations
20 hitherto. And, although we are making a final effort
21 to reach a conclusion, the situation does not permit
22 any further concessions on our part. Therefore, the
23 situation does not allow us to take an optimistic view,
24 and the situation surrounding our Empire is anticipated
25 to take a sudden turn in the event of maladjustment of

1 the negotiations. The above is strictly for your
2 private information."

3 I think I omitted to state it was sent on the
4 12th of November.

5 I offer in evidence IPS document 3116-G, a
6 telegram from Foreign Minister TOGO to his ambassadors
7 in foreign countries dated 25 November 1941 and re-
8 porting on the progress of the Japanese-American nego-
9 tiations.

10 THE PRESIDENT: We note the last document is
11 dated the 12th November 1941.

12 MR. LAVERGE: Yes, your Honor.

13 This document is offered in rebuttal to the
14 testimony of defense witness YAMAMOTO on page 26,041
15 of the transcript and by the accused TOGO on page
16 35,703 of the transcript that when the Japanese Govern-
17 ment submitted their proposal "B" to the United States,
18 the Foreign Minister was confident that it would prove
19 acceptable and lead to a successful conclusion of the
20 negotiations.

21 THE PRESIDENT: Major Blakney.

22 MR. BLAKENEY: This document likewise is ob-
23 jected to on the ground that it has no importance,
24 being a mere confirmation of all the evidence in the
25 case.

38,073

THE PRESIDENT: By a majority the objection is overruled and the document admitted on the usual terms.

CLERK OF THE COURT: Prosecution document
3116-G will receive exhibit No. 3837.

(Whereupon, the document above referred to was marked prosecution exhibit No. 3837 and received in evidence.)

1 MR. LAVERGE: I read exhibit 3837:

2 "November 25, 1941

3 "To: Ambassadors in Britain, America, Hanoi,
4 Thailand, Soviet Russia, Germany, Italy, Batavia and
5 Australia; Ambassadors/?/ in North /China/ and Manchukuo,
6 Nanking, Shanghai and Hongkong.

7 "From: Minister TOGO.

8 "Re: The Present Situation of the Negotiations
9 Between Japan and the U.S.A.

10 "1. Ambassador NOMURA has made a new proposal
11 to Secretary of State Hull and President Roosevelt
12 which was worked out after the establishment of the new
13 cabinet by revising some part of our former one.

14 Negotiations have been carried on in Washington ever
15 since the beginning of this month between President
16 Roosevelt, Secretary Hull, and Ambassador NOMURA
17 (Ambassador KURUSU has also taken part in them since
18 the 17th). Moreover, I have been pressing upon the
19 American and British ambassadors in Tokyo as well, the
20 necessity of the earliest solution, but America is
21 assuming such attitudes as to insist on requesting the
22 Japanese Government's affirmation of its peaceful
23 intentions and at the same time on exacting our affirma-
24 tive promise in advance concerning other fundamental
25 problems, before clarifying her own answer of yes or

1 no to the said proposal. In this manner it still holds
2 fast to theoretical fundamentals and its attitude does
3 not conform in the least to the situation which is be-
4 coming more and more serious day by day. Therefore,
5 on the 20th we presented our final proposal with a view
6 to easing the situation in the southwestern Pacific
7 area and thereby avoiding an imminent crisis in the
8 Pacific. Since then, America seems to have consulted
9 with Britain, Australia, the Netherlands, China, and
10 other interested countries about the said proposal and
11 an answer is expected to be given shortly in some way
12 or other. Nevertheless, judging from the American
13 attitude until the present, there is very little
14 probability that America, reflecting seriously on it-
15 self on this occasion, will accept our final proposal
16 made on the 20th. Under these circumstances, it is
17 very difficult to save the situation and there exists
18 danger that we shall be confronted with the worst in
19 the near future."

20 I offer in evidence IPS document 3346, the
21 record kept by the Foreign Ministry of a speech given
22 by Foreign Minister TOGO on 23 April 1945.

23 This document is offered in rebuttal to the
24 testimony by the accused TOGO in direct examination,
25 record pages 35,779 and 80, and in cross-examination,

1 record page 36,110, that his motive for joining the
2 SUZUKI Cabinet in April 1945 was to bring about peace
3 with the United States and Great Britain.

4 THE PRESIDENT: Major Blakeney.

5 MR. BLAKENEY: I wish to object to this docu-
6 ment on the grounds of its unimportance and its lack
7 of probative value toward the point suggested in its
8 tender. This purports to be a resume, prepared by we
9 know not whom, of Foreign Minister TOGO's introductory
10 address to the Conference of Greater East Asia Ambassadors.
11 The resolutions adopted at that conference are already
12 in evidence as exhibit 3636. This is one of those
13 wartime speeches on the importance and probative value
14 of which, if I am not mistaken, the President of the
15 Tribunal himself has already commented in the early
16 stages of the trial, and it being a wartime speech
17 we should, I think, in the normal course not expect
18 it to have any particular importance for purposes of
19 this trial.

20 It is now offered, however, as impeaching the
21 testimony of the defendant TOGO that he entered the
22 cabinet of Premier SUZUKI in 1945 for the express
23 purpose of ending the war. I should have thought it
24 a self-evident fact that there is no type of negoti-
25 ation more delicate than that for ending a war and,

1 consequently, that it could not have been thought to
2 have probative value that a foreign minister, attempting
3 to end a war, did not publish that intention to the
4 world. Naturally such an intention is kept secret
5 and naturally and inevitably the foreign minister keeps
6 up the pretense that the war must go on until the actual
7 moment comes for stopping it.

8 I, therefore, submit that this document lacks
9 probative value and importance.

10 THE PRESIDENT: Have you anything to add?

11 MR. LAVERGE: Your Honor, this objection
12 comes somewhat unexpected from the defense in view of
13 the fact that in the case for TOGO they introduced
14 the resolution which was taken at this conference at
15 which this speech was made, presumably to show the
16 accused TOGO's peaceful intentions to the Greater East
17 Asia countries.

18 Also it is not contended that if the accused
19 worked for peace he should have announced that to the
20 world. But I think the text of this speech goes far
21 beyond just keeping up the pretense of going on with
22 the war.

23 THE PRESIDENT: By a majority the objection
24 is sustained and the document rejected.

25 MR. LAVERGE: I offer in evidence IPS document

1095A, a telegram from Foreign Minister TOGO to his
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embassadors in foreign countries dated 6 May 1945.

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This document is offered for the same purpose
as the previous document and shows that it was Japan's
intention to continue the war against the United States
and Great Britain.

In addition to the pages of the transcript
previously mentioned, the accused was questioned on
the basis of this telegram and was read passages from
this telegram on pages 36,112 to 15 of the transcript.
He then denied any recollection as to this document.

THE PRESIDENT: Major Blakeney.

MR. BLAKENY: I take objection to the tender
of this document. It is quite true that the document
was put to the defendant TOGO in his cross-examination,
and it is equally true that he stated seven times to
be precise, "I have no recollection of that telegram."
Of course, the tender of this telegram does not impeach
him by proving that he should have remembered it and,
therefore, it has no effect in that way. Now, the
curious thing about this telegram is that it is
captioned "Matter relating to the Press Conference
concerning the German Problem." It is not clarified
whose press conference is in question and it is,
perhaps, a matter of indifference.

1 Now that press conference question raises a
2 number of points in connection with this document, the
3 first and most obvious of which perhaps is that matters
4 relating to a press conference can hardly be either
5 very secret or very important, important, I mean, of
6 course, in the present legal sense of that term.

7 Another point, however, is that when this
8 document was put to the defendant TOGO in cross-exam-
9 ination it was not indicated to him that this telegram
10 was reporting matters relating to a press conference
11 which might have directed his attention to the matter
12 sufficiently so that he could remember the press
13 conference of the Premier, if it was he, and have
14 explained. But at any rate, without his explanation,
15 the Tribunal, I submit, could have very little doubt
16 that it does not require any special action of the
17 Foreign Minister to send out a circular telegram
18 reporting a press conference.
19

20 And in regard to the intention expressed here-
21 in to continue the war I need only refer to the argument
22 made on the last document.

23 THE PRESIDENT: Mr. Laverge.

24 MR. LAVIRGE: Your Honor --

25 THE PRESIDENT: Is it possible that "conference"
should be "references"?

1 MR. LAVERGE: Your Honor, I think that --

2 MR. BLAKENEY: The Japanese document, your
3 Honor, says, "Interview with correspondents."

4 MR. LAVERGE: Your Honor, I submit that this
5 document --

6 THE PRESIDENT: By a majority the objection
7 is sustained and the document rejected.

8 We will adjourn until half past nine tomorrow
9 morning.

10 (Whereupon, at 1600, an adjournment
11 was taken until Friday, 23 January 1948, at
12 0930.)

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3 Honor, says, "Interview with correspondents."

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Message Center, Intelligence Division, WGDS

United Nations War Crimes Commission